

REMARKS

Reconsideration of the application in light of the amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 1-54 and 56 are pending in this case. Claims 1, 3, 19, 21, 37, 39, 42 and 56 have been amended. Claims 5, 18, 36, and 54 have been cancelled without prejudice or disclaimer of the subject matter recited therein. Claims 57-68 have been added. No new subject matter has been added.

Objection To Claim 3

Applicants have corrected the informality noted by the Examiner in claim 3, and so this objection can now be withdrawn.

Discussion of Rejection Under 35 U.S.C. § 112, ¶2

Claims 37-54 stand rejected in view of their use of the phrase “configured to” with regard to display and computations, and the use of the phrase “capable of” with regard to data output. According to the Patent Examiner, these phrases imply that the associated functionality may or may not be performed, which in the Examiner’s view renders the claim indefinite.

As for the phrase “capable of,” Applicant appreciates the Examiner’s concern and has made amendments to claims 1, 3, 37, 39, 42 and 56 to remove use of this term. As amended, these claims are submitted to not present any concerns under Section 112, paragraph 2.

As for the phrase “configured to,” applicants perceive this claim feature as positively reciting structural or operational features that are required as per each of claims 19, 21, 37, 39 and 56. *See, e.g., Lunareye, Inc. v. Independent Witness, Inc.*, 2006 WL 2854490 (E.D.Tex.)(Oct. 3, 2006) (copy attached at Tab A). However, these claims have been amended to recite a processor that has been “programmed,” as that is how a processor is configured. A processor having a program is a specific machine, distinguishable from a general purpose computer. In the case of claim 56, the computing step has been amended to remove the term “configured to,” despite it appearing in a different context than the other claims, so as to avoid further issues being raised along this line and thereby streamline prosecution.

In view of the amendments to the claims referred to under this heading of the instant Amendment, reconsideration and withdrawal of the rejections under Section 112 are respectfully requested.

Discussion of Rejection Under 35 U.S.C. § 101

Claims 1-54 and 56 stand rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. All claims are said to fail to satisfy the “concreteness” requirement under the standard of *State Street Bank & Trust Co. v. Signature Financial*, 149 F.3d 1368, 1373 (Fed. Cir. 1998), that to be patentable subject matter under Section 101, a claim must recite a “useful, tangible, and concrete result.” With regard to the “tangible” requirement, Applicants understand that the Patent Office maintains that the tangible requirement is not met in claims 37-54 due to the use of the phrase “capable of outputting the sustainability score.” And with regard to the “useful” requirement, the Patent Examiner has indicated in the “Response to Arguments” (page 2 of the Detailed Action) that the prior submissions have resolved the perceived lack of

“usefulness.”

There is no outstanding rejection in view of the “useful” requirement against the claims now pending.

Referring now to the “tangible” requirement, the amendments herein make unequivocal that there is a tangible output in claims 37-54. The Examiner indicated that the interface should expressly be recited as outputting the sustainability score, and Applicants have made that change to clarify that these claims always produce a tangible result. Accordingly, Applicants believe that this portion of the Section 101 rejection has been overcome as well.

Next, with regard to the “concrete” requirement, in the Response to Arguments bridging pages 2 and 3 of the Detailed Action, the Patent Examiner maintains that although formulas can generate concrete results from subjective data, the claims remain rejected as lacking concreteness because “both the coefficients and the formula are so broadly recited that one cannot ascertain if the invention, as claimed, yields a result that is substantially repeatable.” The Examiner invites clarification of the claims:

If Applicant's novelty is the formula itself, then the formula should be clearly set forth in the claims. However, if the Applicant's novelty lies more in the interface that allows a user to set up a benchmarking tool, then this aspect of the invention should be clarified as well.

Novelty of the invention resides in many aspects of the disclosure, but with respect to each of the independent claims, the rating tool interface is submitted as being novel over known interfaces in this field. Particularly, in view of its synergistic use in connection with data management for monitoring holdings and providing data-change alerts regarding such holdings.

The substance of the rejection for perceived lack of “concreteness” is unchanged from the Office Action of May 2, 2006, and is traversed.

The Examiner states,

As per concreteness, since a human user enters the coefficient values, these coefficient values appear to be based on subjective data. The analysis of this subjective data is not consistently used to yield results that are substantially repeatable. In other words, the sustainability score is purely subjected to the potentially random opinions of users without any corresponding methodology to provide consistent significance to analysis of the sustainability score results.

Applicants disagree. Concreteness is not wanting simply because a human enters the values. The same values could be provided by a connection to a machine that served as the source of those values. Whatever the values themselves are, and regardless of their source, any set of values applied to the same formula will necessarily provide a repeatable result. Applicants note that the claims at issue in the famed *State Street* case did not recite a formula.¹

¹ The sole claim of U.S. Patent No. 5,193,056 recites processing inputs that taken a variety of values depending on the “partner” without ever specifying the formulas used:

1. A data processing system for managing a financial services configuration of a portfolio established as a partnership, each partner being one of a plurality of funds, comprising:
 - (a) computer processor means for processing data;
 - (b) storage means for storing data on a storage medium;
 - (c) first means for initializing the storage medium;
 - (d) second means for processing data regarding assets in the portfolio and each of the funds from a previous day and data regarding increases or decreases in each of the funds, asscts and for allocating the percentage share that each fund holds in the portfolio;
 - (e) third means for processing data regarding daily incremental income, expenses, and net realized gain or loss for the portfolio and for allocating such data among each fund;
 - (f) fourth means for processing data regarding daily net unrealized gain or loss for the portfolio and for allocating such data among each fund; and
 - (g) fifth means for processing data regarding aggregate year-end income, expenses, and capital gain or loss for the portfolio and each of the funds.

Respectfully, the Patent Office's assessment of the claim is incorrect. Users can define the coefficients, but these are applied to a formula. Because a set of coefficient values applied to a formula will always yield the same value, the claims are concrete. Applicants need not restrict the claims to any particular formula in order to have consistent results for the same set of coefficient values. The output is concrete because the sustainability score is computed on the basis of a "formula" and therefore has a consistent basis for analysis.

There is no randomness imparted to the system merely because a user can enter coefficient values or because a "formula" is generally recited. The Groveman Declaration at paragraph 8 provides an example in support of Applicants position which represents a exemplary state of facts:

By way of example, for a given set of coefficients representing a particular financial model, two companies with identical non-economic data will result in the computation of the identical sustainability score. In this manner, a user can analyze the sustainability rating of one or more companies with complete assurance that the performance model defined by the specified set of coefficients is repeatably and reliably applied to the economic and non-economic data of each respective company.

The Ohnemus Declaration, at paragraph 8, points out concreteness, predictability and repeatability of the sustainability score, notwithstanding user input variables, by way of comparison to other tools in the financial industry which similarly provide analyses based upon ever changing financial information:

The sustainability score output or generated by the Pending Claims is based on continuously changing financial information just like many tools in the financial industry do. The data (e.g., non-economic data) provided to the system may change over time, as

does other information used in the financial industry. However, for a given set of data and user-input coefficients, the score that is output is an objective calculation and is repeatable by virtue of the formula being used.

Finally, support is found in the patent in dispute in the *State Street Bank* case. Referring to the footnote above, use of information from a database to arrive at a score as in the claimed invention is no less concrete than the calculation of a price based on multiple factors and dynamically changing information as adjudicated as being a “concrete” application in the *State Street Bank* case. Yet, the court in *State Street* pronounced:

Today, we hold that the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation because it produces “a useful, concrete and tangible result” — a final share price momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades.

State Street, supra, at 1373.

The rejection has the output of different users compared to one another but that is not claimed:

If each user selects a different set of factors and corresponding coefficients, it is not clear that comparison of respectively yielded sustainability scores would be useful or significantly repeatable. . . . [T]he resulting comparison would be

inconsistent since it might be based on an apples and oranges comparison.

(Detailed Action, item 5, page 4.)

The sustainability scores computed for one user are not described or claimed as being compared to those of another user. The claims recite that a sustainability score is “output,” not that there is a comparison to scores produced by other users. This is not a matter of comparing apples to oranges as suggested by the Patent Examiner. Each user can establish coefficient values that represent a preference or perspective in the computation of sustainability scores based on the formula that that user then reviews. The so-produced scores provide a repeatable reference for the user to make a relative assessment among the scores of the entities being rated.

Applicants respectfully submit that the independent claims concern a practical application that provides a concrete result to persons in the financial industry, as supported by the instant specification and the accompanying declarations.

Finally, a preemption argument has been raised again:

Additionally, even if the sustainability score were determined to yield a practical application, the claimed coefficient values, non-economic factors, sustainability score, and related formula are recited so broadly and abstractly that the claimed invention could feasibly preempt every substantial practical application thereof, which is prohibited under 35 U.S.C. § 101.

The Patent Examiner explains that since the coefficients and formula are both recited broadly, precisely what is being asserted as the intended novelty is not clear. The Examiner refers to the drawings as providing examples of formulas with varying sets of coefficients, but notes that the claims are not limited to the specific examples. In response, Applicants note that it is not aware of any art of record which requires limiting the claims to specific examples, and the legal precedent including *State Street Bank* does not mandate that a claim be limited to a particular formula or set of coefficients in order to not be preemptive. The Examiner states:

Consequently, the claimed invention appears to cover the scope of any substantial practical application utilizing any coefficients and formulas.

The notion of preemption is discussed in Section (IV)(C)(3) of the Interim Guidelines for Examination of Patent Application for Patent Subject Matter Eligibility. The examples and discussion there make clear that use of a formula in conjunction with other steps is not preemption. See Diehr, 450 U.S. at 187 (equation in claim not preempted in view of other steps in claimed process) and compare to Benson (claim reciting a computer that solely calculates a mathematical formula). In each of the claims now pending, the interface enables a user to input a coefficient value which is used in the recited formula. As such, substantial practical applications can exist which are not preempted, such as the Nedbank index which uses sustainability scores and FTSE/JSE Top 40 index without enabling users to define coefficient values which influence the sustainability score itself. This is quite different than preempting any application which utilizes any coefficient and any formula, as the Examiner asserts on page 3 of the Detailed Action. Notwithstanding the Examiner's assessment, inspection of the claims

reveals that they do not cover every substantial practical application of a rating system.

Applicants respectfully submit that the independent claims concern a practical application that provides a tangible result to persons in the financial industry, as supported by the instant specification and the Declarations of record.

Thus, the claimed invention provides results which are “useful, concrete, and tangible.” For at least the foregoing reasons, Applicants submit that claims 1-54 and 56 are eligible subject matter under 35 U.S.C. § 101.

Discussion of Rejection Under 35 U.S.C. § 103(a)

Claims 1-8 , 12-54, and 56 stand “rejected under 35 U.S.C. § 103(a) as being unpatentable over CGSDI’s Dashboard of Sustainability, as disclosed in the archived web site from [URL: http://web.archive.org/web/*http://esl.jrc.it/engind/dashbrds.htm],” (hereinafter “CGSDI Dashboard”).

The primary reference cited by the Examiner is a collection of web pages gathered between March 10, 2001 and February 13, 2003 from the WayBackMachine (<http://www.archive.org>). Applicants note that the RioJo Dashboard developed by the CGSDI is the topic of the extensive paper by John O’Connor, entitled “The RioJo Dashboard of Sustainable Development Indicators,” (“O’Connor”) that was previously cited during prosecution (*See* Office Action dated November 15, 2005.) Thus, Applicants respectfully submit that much of the relevant disclosure of the CGSDI Dashboard was previously considered and overcome by Applicants’ February 15, 2006 Amendment.

The CGSDI Dashboard is “a software tool . . . recommended to students, university lecturers, researchers and indicator experts . . . with over 60 indicators or more then 200 counter . . . for doing your own assessment of the ten years since the Rio Summit.” (CGSDI Dashboard, page 23.) Thus, the CGSDI Dashboard is directed to mining data concerning a country’s political, economic, social, and environment sustainability.

In contrast, the claimed invention is directed specifically to the application of sustainability scores in the capital markets.

Further, claims 1 and 3 have been amended to recite the steps of “enabling a user to input . . . an alert-input through the interface, . . . the alert-input including at least one monitored holding and a personalized criteria concerning the sustainability score of the monitored holding; . . . monitoring the at least one monitored holding; testing the computed sustainability score against the personalized criteria or each of the monitored holdings; . . . generating an alert for each of the monitored holdings that satisfies the personalized criteria; and transmitting the alert to the user in response to satisfaction of the personalized criteria.” Independent claims 19, 21, 37, 39 and 56 have been similarly amended. Support for these amendments can be found in the Specification at page 15, lines 4-10 and at page 17, line 20 bridging page 18, line 6.

Applicants submit that the CGSDI Dashboard does not disclose the feature of receiving inputs from the user to generate a customized alert which can be transmitted to the user when a personalized criteria is satisfied. The CGSDI Dashboard is a *passive* data-mining tool that enables a user to query and view the data stored within. The CGSDI Dashboard does not disclose or suggest the feature of *actively monitoring* a country or government -- let along a company, nor does it fairly teach or suggest the steps of and alerting the user to changes that satisfy user-supplied criteria concerning a holding (e.g., an investment in a company, etc.)

Indeed, CGSDI is silent in this request. Thus, the CGSDI Dashboard does not anticipate nor render obvious the invention as claimed. Applicants further submit that none of the other references cited by the Examiner disclose these features.

Therefore, reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

Each and every point raised in the Office Action dated January 5, 2007, has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1-4, 6-17, 19-35, 37-53 and 56-68 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Respectfully submitted,



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Tab A

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Motions, Pleadings and Filings

Only the Westlaw citation is currently available.

United States District Court,
E.D. Texas,
Lufkin Division,
LUNAREYE, INC., Plaintiff,
v.
INDEPENDENT WITNESS, INC., et al., Defendant.
Civil Action No. 9:05-CV-188.

Oet. 3, 2006.

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**MEMORANDUM OPINION AND ORDER
CONSTRUING CLAIM TERMS OF UNITED
STATES PATENT**

NO. 6,484,035

RPN CLARK, District Judge.

*1 Plaintiff LunarEye, Inc. ("LunarEye") filed suit against Defendants Independent Witness, Inc. ("IWI"), BP America Production Company and BP America, Inc., (collectively "Defendants") claiming infringement of United States Patent No. 6,484,035 ("the '035 patent"). The court conducted a *Markman* hearing to assist the court in interpreting the meaning of the claim terms in dispute. Having carefully considered the patent, the prosecution history, the parties' briefs, and the arguments of counsel, the court now makes the following findings and construes the disputed claim terms as follows.

I. Claim Construction Standard of Review

Claim construction is a matter of law. *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 116 S.Ct. 1384 (1996) ("*Markman II*"). "The duty of the trial judge is to determine the meaning of the claims at issue, and to instruct the jury accordingly." *Exxon Chem. Patents, Inc. v. Lubrizoil Corp.*, 64 F.3d 1553, 1555 (Fed.Cir.1995) (citations omitted).

"[T]he claims of the patent define the invention to which the patentee is entitled the right to exclude." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed.Cir.2005) (*en banc*) (citation omitted). "Because the patentee is required to 'define precisely what his invention is,' it is 'unjust to the public, as well as an evasion of the law, to construe it in a manner different from the plain import of its terms.'" *Phillips*, 415 F.3d at 1312 (quoting *White v. Dunbar*, 119 U.S. 47, 52 (1886)).

The words of a claim are generally given their ordinary and customary meaning. *Phillips* 415 F.3d at 1312. The "ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." [FN1] *Id.* at 1313. Analyzing "how a person of ordinary skill in the art understands a claim term" is the starting point of a proper claim construction. *Id.*

[FN1] Based on the patent and the representations of the parties at the hearing, the court finds that in this case such a person would have at least a Bachelor's degree, in a field such as computer science, engineering or the technical aspects of communications. The person would also have a minimum of two years experience in the field.

A "person of ordinary skill in the art is deemed to read the claim term not only in context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification." *Phillips*, 415 F.3d at 1313. Where a claim term has a particular meaning in the field of art, the court must examine those sources available to the public to show what a person skilled in the art would have understood disputed claim language to mean. *Id.* at 1414. Those sources "include 'words of the claims themselves, the remainder of the specification, the prosecution history, and extrinsic evidence concerning

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relevant scientific principles, the meaning of technical terms, and the state of the art." *Id.* (citation omitted).

"[T]he ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words." *Phillips*, 415 F.3d at 1314. In these instances, a general purpose dictionary may be helpful. *Id.*

*2 However, the Court emphasized the importance of the specification. "[T]he specification 'is always highly relevant to the claim construction analysis. Usually it is dispositive; it is the single best guide to the meaning of a disputed term.'" *Phillips*, 415 F.3d at 1315 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed.Cir.1996)). A court is authorized to review extrinsic evidence, such as dictionaries, inventor testimony, and learned treatises. *Phillips*, 415 F.3d at 1317. But their use should be limited to edification purposes. *Id.* at 1319.

The "'ordinary meaning' of a claim term is its meaning to the ordinary artisan after reading the entire patent." *Phillips*, 415 F.3d at 1321. However, the patentee may deviate from the plain and ordinary meaning by characterizing the invention in the prosecution history using words or expressions of manifest exclusion or restriction, representing a "clear disavowal" of claim scope. *Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1327 (Fed.Cir.2002). It is clear that if the patentee clearly intended to be its own lexicographer, the "inventor's lexicography governs." *Phillips*, 415 F.3d at 1316.

The intrinsic evidence, that is, the patent specification, and, if in evidence, the prosecution history, may clarify whether the patentee clearly intended a meaning different from the ordinary meaning, or clearly disavowed the ordinary meaning in favor of some special meaning. See *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979-80 (Fed.Cir.1995). Claim terms take on their ordinary and accustomed meanings unless the patentee demonstrated "clear intent" to deviate from the ordinary and accustomed meaning of a claim term by redefining the term in the patent specification. *Johnson Worldwide Assoc., Inc. v. Zebco Corp.*, 175 F.3d 985, 990 (Fed.Cir.1999).

II. Claim Construction--The '035 patent

Alvin C. Allen is the inventor of United States Patent No. 6,484,035, which was filed November 13, 2001. It is a continuation of U.S. Patent application Ser. No.

09/206,627 filed December 7, 1998. The assignee is LunarEye, Inc. The '035 patent describes methods and an apparatus for determining the location of an object, or person using the Global Positioning Satellite System (GPS), and transmitting that location in response to certain "trigger events." In general, a page receiver sends a signal to a GPS unit, which causes it to determine the location of the object or person. The resulting GPS signal is transmitted by a telemetry transmitter, such as a cellular network telemetry transmitter.

The five disputed terms are contained in claim 3. This section is set out below with the disputed terms in bold.

3. A triggerable location-reporting apparatus comprising:

a location-signal generating device configured to produce a location signal including location data **when enabled**;

a data selecting device for selecting less than all of the location data to include in the location signal;

*3 a **telemetry transmitter** coupled to the data selecting device configured to transmit the location signal **when enabled**; and

an **enable controller** configured to enable the location-signal generating device and the **telemetry transmitter** when it receives a trigger signal and to disable the location-

signal generating device and the **telemetry transmitter** after the **telemetry transmitter** transmits the location signal;

wherein the data selecting device records the selected location data.

"When enabled," "To enable" and "Disable"

For "when enabled" and "to enable," Plaintiff proposes "when activated" and "to activate," respectively. Defendants suggest "when power is supplied, i.e., when the device is turned on." On the flip side, Plaintiff argues that "disable" should be defined as "to deactivate." Defendants submit that the construction of "disable" should be "to switch off power, i.e., to turn off."

Claim 3 uses the terms "enabled," "to enable" and "disabled," but the specification includes no special definition of those terms. Plaintiff argues first that no definition is needed, and that the "plain and ordinary" meaning of the terms should suffice. As with so many patents involving electronic devices, "plain and ordinary" is not so easy to discern.

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Defendants correctly argue that these terms are used in the specification in connection with a power management feature of the invention. At times, the described devices (the location signal generating device and the telemetry transmitter) use no power, i.e. they are turned off. When a signal is received, power is turned on, and they are able to operate. In other words, according to Defendants, the claim merely describes devices similar to a common electric lamp. When the switch is in the "on" position, the light bulb is illuminated. When in the "off" position, the bulb is dark.

LunarEye asserts that the claim language should not be so limited. LunarEye would interpret the claim to also describe devices which continuously receive power, although they might be in a "low" power condition, so that power consumption is minimized. This would be similar to the "hibernation" state observed in some computers and cell phones, which have a blank screen when not used for a certain period of time, although they are still using some power.

Defendants argue that because the specification and prosecution history do not disclose any embodiment that does not involve power being turned off and on, the claim must be so defined. See *Wang Laboratories, Inc. v. America Online, Inc.*, 197 F.3d 1377 (Fed.Cir. 1999). Plaintiff naturally reminds the court that limitations may not be imported into the claim from the specification. See *Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1327-28 (Fed.Cir.2002)

But review of contradictory axioms is not analysis. *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 904 (Fed.Cir.2004). The court must determine if there is either a limitation in the claim language itself, or a clear intent to limit the claim expressed in the specification or prosecution history.

*4 The claim simply refers to devices being "enabled" and "an enable controller" configured "to disable" devices. This could mean, as Defendants argue, that the devices have all power supply turned off. But anyone who owns a computer or a cell phone, let alone someone skilled in the art, would be aware that such devices can be in a "hibernation" or "sleep" mode, in which they receive a small amount of power.

The question then becomes whether the applicant expressed a clear intent to limit the claim scope. According to the specification, the invention's operational sequence may begin "[u]pon receipt of a page or the occurrence of another triggering action...." Col. 1, L. 63-64. This does not indicate whether the

device is already using some low level of power.

The "method may include applying power to a GPS receiver and a cellular transmitter upon receipt of the page, and disconnecting power from the GPS receiver and the cellular telemetry transmitter upon transmission of the location of the object." Col. 2, L. 39-43. "Disconnecting power" implies that all power is shut off. But, this is just a description of one variation of the invention.

A flow chart of the power management system is provided by Figure 3 of the patent. The verbal description of the flow chart states that the "[t]he controller wakes up the GPS receiver....," which then "wakes up" the cellular network transmitter. Col. 6, L. 26-28. The prosecution history contains a communication from the Patent Examiner with the following references:

"a controller 25 (enable controller) configured to wake-up (enable) the LDS...."

"to put back to sleep (disable) the LDS receiver/processor...."

See Independent Witness' Brief, Ex. 2, [Doc. # 84-3] p. 7. There seems to be little dispute that "enable," as used by the inventor, and as understood by the Examiner, is synonymous with "wake up." Similarly, "disable" can be used interchangeably with "put to sleep."

Together, these references indicate that "to enable" and "when enabled" (or "waking up") requires the application of power. Conversely, "to disable" (or "put to sleep"), involves the removal or reduction of power.

The question still remains: Does the claim describe only a device which receives no power until it is "enabled?" In an Office Action (Date Mailed: 07/12/01) the Examiner compared Claim 26 of Allen's application, (which later became the Claim 3 now in dispute) with language in an earlier, related, patent, U.S. Patent No. 5,777,580 (Janky) Col. 11, L. 26-40. As a basis for rejecting Claim 26 of Allen's application, the Examiner states that "Janky et. al. clearly show and disclose a vehicle location system (triggerable location-reporting apparatus)" with the same features disclosed in Allen's Claim 26. See Independent Witness Brief, DX 2 [Doc. # 84-3] p. 7 of 15.

The Examiner noted that Janky already taught an enable controller configured to "wake-up (enable)" the LDS [FN2] receiver/processor (location signal generating device) and the telemetry transmitter when it receives a trigger signal, and, inherently, to "put back to sleep (disable)" the location signal generating

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device and the telemetry transmitter. *See* DX 2, [Doc. # 84-3] p. 7 of 15. (Emphasis added)

FN2. In Janky, an LDS is a "Location Determination System" such as GPS, GLONASS, Loran or an inertial navigation system that receives LDS signals from two or more sources. *See* Janky, Abstract.

*5 On the next page of the Office Action, the Examiner stated: "Janky et. al. further disclose that the GPS processor is in a 'sleeper' mode (power is not applied) until the system receives a page (column 11 lines 35-40)." (Emphasis added). Nothing in the record indicates that Allen ever tried to contradict or correct the Examiner's obvious understanding that "disable" meant "put back to sleep" and "sleeper mode" meant "power is not applied." On the other hand, whether or not power was being turned off, or merely reduced, was not the focus of the interchange between the Examiner and Allen.

The "Response To Final Office Action" states that "the enable controller in Janky *does not necessarily* disable the location-signal generating device and the telemetry transmitter after the telemetry transmitter transmits the location signal, as required by claim 26 [now claim 3 in the patent before the court], and Janky does not inherently include this limitation." (Emphasis in the original) [IW's Brief, EX. 4, Doc. # 84-4, p. 10 of 18]. The Response explained to the Examiner that Claim 26 [now claim3] can be distinguished from Janky because the system in Janky "may leave the system enabled" until it is "unenabled" *sic* by a person performing an action such as removing power, rather than by the enabler itself. In other words, Allen distinguished his patent by asserting that the controller would accomplish a task performed by a person. But there was no clear statement that the task could not be a reduction of power.

The argument that "sleep" or "sleeper mode" means "no power" could be supported by the specification's description of the power management flow chart, Figure 3.

The controller then goes back to sleep. 72 With this power management approach, significant power is being used only when position information is being transmitted over the cellular network. The rest of the time the **only drain on system power** is the page receiver, which has a very low power requirement ...

Col. 6, L. 33-38. (Emphasis added). If the "only drain" is the page receiver, then the GPS and the transmitter must be using no power at all. This

conclusion is supported by the following at Col. 5, L. 62-64: "When the page receiver 34 receives a page over antenna 44 that is addressed to the page receiver 34, the page receiver 34 transmits a "power-on" signal 46 to the controller 36." (Emphasis added).

The foregoing are the strongest arguments for defining "enabled" as meaning that power is supplied or "tuned on." But none is a "clear disclaimer" of other possibilities. There is no statement that the GPS the (location signal generating device)or the telemetry transmitter could not be, or would not be in a low power state. The single statement by the patent examiner about a GPS processor in a "sleeper mode (power is not applied)" referred specifically to Janky and how much power was being applied or removed was not the focus of debate. The court can not merely assume or infer a "clear disclaimer."

*6 The claim language is broad enough to encompass an enable controller which turns the devices completely on and off, or a system in which in which at least some power is continuously applied to the devices. While only one embodiment (the preferred embodiment) is described in the specification, there is no clear statement disclaiming other embodiments or limiting the devices. The court therefore defines these terms as follows:

"Enabled" means "fully operational and performing its function."

"To enable" means "to place into a condition which is fully operational and performing its function."

"To disable" means "to place into a condition which is not fully operational and performing its function."

"Telemetry transmitter."

To define the term, Plaintiff proposes "any transmitter capable of wireless transmission." Defendants argues that the term means "cellular network based transmitter."

The parties did not dispute in their briefs or at the Markman hearing what a telemetry transmitter does. One skilled in the art would know, and the parties agree, that a telemetry transmitter simply transfers measurable data using telecommunication techniques. However, Defendants want to limit the term in this case to the use of a cellular-based transmitter, and Plaintiff wants to impose the limitation that the transmitter be wireless. There is simply no basis for either limitation.

As anyone who has seen a heart or fetal monitor in a hospital knows, telemetry can be transmitted over

Slip Copy, 2006 WL 2854490 (E.D.Tex.)

(Cite as: 2006 WL 2854490 (E.D.Tex.))

wires. Just because that may be impractical for most embodiments of the invention does not entitle Plaintiff to include that limitation.

As to Defendant's "cellular telephone" limitation, the specification is replete with descriptions of the transmission of data by satellite, and radio-telephoned. Col. 1, L. 64-65, Col. 2, L. 26-28, Col. 2, L. 44-45, Col. 2, L. 63-64. If there is any doubt, the specification states: "An alternative embodiment of the system that does *NOT* use the cellular network is illustrated in FIG. 10." The specification then describes the use of a satellite. Col. 8, L. 29-30.

The court will define this term as follows:

"Telemetry transmitter" means "a device that transfers measurable data using telecommunication techniques or methods."

"Enable controller"

For this term, Plaintiff proposes, "a microprocessor or other computing device." Defendants suggest, "a microprocessor or other computing device that is configured to perform and actually performs specified tasks."

The parties do not dispute that the term "enable controller" means "a microprocessor or other computing device." The parties also agree that the enable controller must be configured to perform specified tasks, but Plaintiff argues that additional claim language already defines what the enable controller is required to do.

If the court inserts Defendants' proposed construction, an "enable controller" would be defined as "a microprocessor or other computing device that is configured to perform and actually performs specific tasks configured to enable the location-signal generating device and the telemetry transmitter when it receives a trigger signal...." This proposed definition is both confusing and unnecessary. It is clear that the functionality required by the enable controller is already defined by the remainder of the claim limitation. Therefore, those limitations do not need to be imported into the construction of "enable controller" itself.

*7 The court will define the term as follows:

"Enable controller" means "a microprocessor or other computing device."

IV. Conclusion

The jury shall be instructed in accordance with the

court's interpretation of the disputed claim terms in the '035 patent.

So ORDERED and SIGNED this 3 day of October, 2006.

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Motions, Pleadings and Filings ([Back to top](#))

• [2006 WL 3607262](#) (Trial Motion, Memorandum and Affidavit) Independent Witness, Inc.'s Motion for Summary Judgment of Noninfringement (Oct. 27, 2006)

• [2006 WL 2377145](#) (Trial Motion, Memorandum and Affidavit) Independent Witness, Inc.'s Motion for Partial Summary Judgment or Alternatively to Dismiss and Memorandum in Support Thereof (Jul. 18, 2006)Original Image of this Document (PDF)

• [2006 WL 2305064](#) (Trial Motion, Memorandum and Affidavit) BP Defendants' Motion for Partial Summary Judgment (Jun. 30, 2006)Original Image of this Document (PDF)

• [2006 WL 2305063](#) (Trial Pleading) Plaintiff's First Amended Complaint and Demand for Jury Trial (Jun. 28, 2006)Original Image of this Document (PDF)

• [2006 WL 1852539](#) (Trial Pleading) Lunareye's Answer to BP's Counterclaims (May 12, 2006)Original Image of this Document (PDF)

• [2006 WL 1503371](#) (Trial Motion, Memorandum and Affidavit) Defendant Independent Witness, Inc.'s Response to Plaintiff's Motion to Amend Protective Order (Apr. 25, 2006)Original Image of this Document (PDF)

• [2005 WL 3940526](#) (Trial Pleading) Plaintiff's Original Complaint and Demand for Jury Trial (Sep. 21, 2005)Original Image of this Document (PDF)

• [9:05cv00188](#) (Docket) (Sep. 21, 2005)

END OF DOCUMENT

Tab B



US005193056A

United States Patent [19]

Boes

[11] Patent Number: 5,193,056

[45] Date of Patent: Mar. 9, 1993

- [54] DATA PROCESSING SYSTEM FOR HUB AND SPOKE FINANCIAL SERVICES CONFIGURATION

[75] Inventor: R. Todd Boes, Boston, Mass.

[73] Assignee: Signature Financial Group Inc., Boston, Mass.

[21] Appl. No.: 667,777

[22] Filed: Mar. 11, 1991

[51] Int. Cl.⁵ G06F 15/21; G06F 15/30

[52] U.S. Cl. 364/408

[58] Field of Search 364/401, 408

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START

102 104 DAILY

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Data Sources, Computer Associates International, Inc., 1989, pp. J-416 to J-426.

Primary Examiner—Roy N. Envall, Jr.

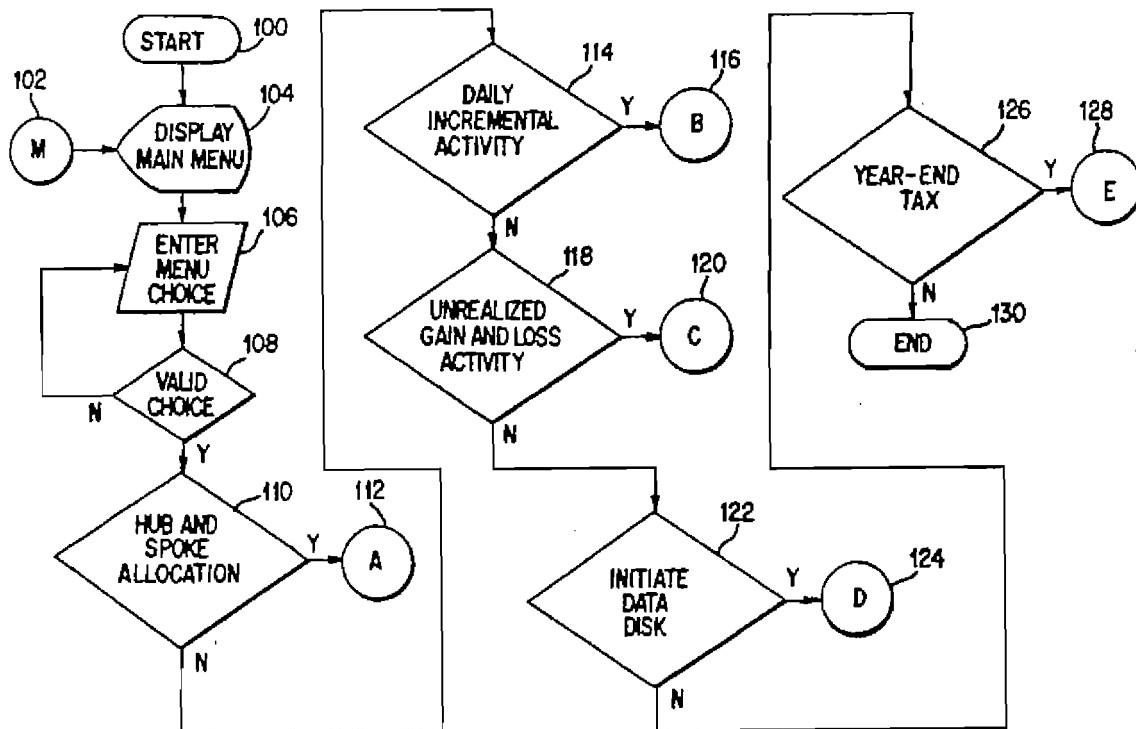
Assistant Examiner—David Huntley

Attorney, Agent, or Firm—Pennie & Edmonds

[57] ABSTRACT

A data processing system is provided for monitoring and recording the information flow and data, and making all calculations, necessary for maintaining a partnership portfolio and partner fund (Hub and Spoke) financial services configuration. In particular, the data processing system makes a daily allocation of assets of two or more funds (Spokes) that are invested in a portfolio (Hub). The data processing system determines the percentage share (allocation ratio) that each fund has in the portfolio, while taking into consideration daily changes both in the value of the portfolio's investment securities and in the amount of each fund's assets. The system also calculates each fund's total investments based on the concept of a book capital account, which enables determination of a true asset value of each fund and accurate calculation of allocation ratios between the funds. The data processing system also tracks all the relevant data, determined on a daily basis for the portfolio and each fund, so that aggregate year-end data can be determined for accounting and for tax purposes for the portfolio and for each fund.

6 Claims, 18 Drawing Sheets



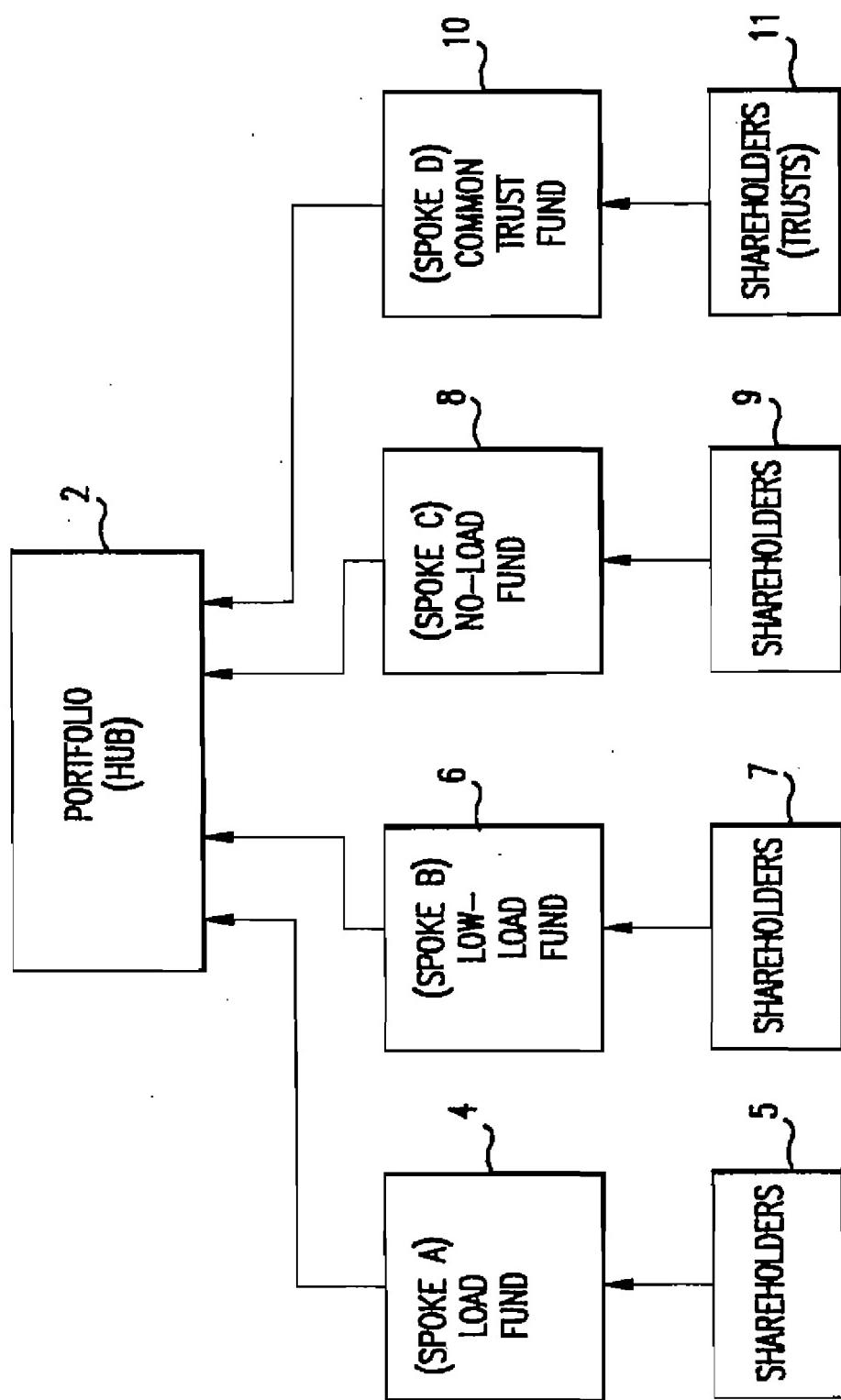


FIG. 1

INSTITUTIONAL FUND			RETAIL FUND		
EXPENSE TYPE	\$ AMOUNT	BASIS POINTS	EXPENSE TYPE	\$ AMOUNT	BASIS POINTS
INVESTMENT ADVISORY FEE	300,000	0.20%	INVESTMENT ADVISORY FEE	200,000	0.20%
ADMINISTRATIVE FEES	150,000	0.10%	ADMINISTRATIVE FEES	150,000	0.15%
CUSTODY FEES	55,000	0.04%	CUSTODY FEES	55,000	0.06%
CUSTODY TRANSACTION FEES	15,000	0.01%	CUSTODY TRANSACTION FEES	15,000	0.02%
PORTFOLIO ACCOUNTING	45,000	0.03%	PORTFOLIO ACCOUNTING	45,000	0.05%
LEGAL	23,000	0.02%	LEGAL	23,000	0.02%
AUDIT	35,000	0.02%	AUDIT	35,000	0.04%
TRUSTEES FEES AND EXPENSES	24,600	0.02%	TRUSTEES FEES AND EXPENSES	24,600	0.02%
PRINTING	9,300	0.01%	PRINTING	10,300	0.02%
SHAREHOLDER SERVICING FEES	150,000	0.10%	SHAREHOLDER SERVICING FEES	400,000	0.40%
12b-1 EXPENSES	20,500	0.01%	12b-1 EXPENSES	38,500	0.04%
ORGANIZATION EXPENSES	5,000	0.00%	ORGANIZATION EXPENSES	5,000	0.01%
MISCELLANEOUS	30,000	0.02%	MISCELLANEOUS	20,000	0.02%
	862,400	0.57%		1,029,400	1.03%

FIG. 2

PORTFOLIO (HUB)		
	\$ AMOUNT	BASIS POINTS
AVERAGE ASSETS	<u>250,000,000</u>	
EXPENSE TYPE		
INVESTMENT ADVISORY FEE	500,000	0.20%
ADMINISTRATIVE FEES	125,000	0.05%
CUSTODY FEES	60,000	0.02%
CUSTODY TRANSACTION FEES	15,000	0.01%
PORTFOLIO ACCOUNTING	45,000	0.02%
LEGAL	18,000	0.01%
AUDIT	30,000	0.01%
TRUSTEES FEES AND EXPENSES	24,600	0.01%
MISCELLANEOUS	8,500	0.00%
TOTAL EXPENSES	<u>826,100</u>	<u>0.33%</u>

24

(CONT. ON SECOND SHEET)

FIG.3

(CONT. FROM FIRST SHEET)

INSTITUTIONAL FUND (SPOKE A)			RETAIL FUND (SPOKE B)		
EXPENSE TYPE	\$ AMOUNT	BASIS POINTS	EXPENSE TYPE	\$ AMOUNT	BASIS POINTS
INVESTMENT ADVISORY FEE		0.00%	INVESTMENT ADVISORY FEE		0.00%
ADMINISTRATIVE FEES	75,000	0.05%	ADMINISTRATIVE FEES	100,000	0.10%
CUSTODY FEES		0.00%	CUSTODY FEES		0.00%
CUSTODY TRANSACTION FEES		0.00%	CUSTODY TRANSACTION FEES		0.00%
PORTFOLIO ACCOUNTING		0.00%	PORTFOLIO ACCOUNTING		0.00%
LEGAL	5,000	0.00%	LEGAL	5,000	0.01%
AUDIT	10,000	0.01%	AUDIT	10,000	0.01%
TRUSTEES FEES AND EXPENSES	24,600	0.02%	TRUSTEES FEES AND EXPENSES	24,600	0.02%
PRINTING	9,300	0.01%	PRINTING	18,300	0.02%
SHAREHOLDER SERVICING FEES	150,000	0.10%	SHAREHOLDER SERVICING FEES	400,000	0.40%
12b-1 EXPENSES	28,500	0.01%	12b-1 EXPENSES	38,500	0.04%
ORGANIZATION EXPENSES	5,000	0.00%	ORGANIZATION EXPENSES	5,000	0.01%
MISCELLANEOUS	30,000	0.02%	MISCELLANEOUS	20,000	0.02%
ALLOCATION OF HUB EXPENSES	329,400	0.22%	ALLOCATION OF HUB EXPENSES	621,400	0.62%
	495,660	0.33%		338,440	0.33%
	825,960	0.55%		951,840	0.95%

FIG.3(Cont.)

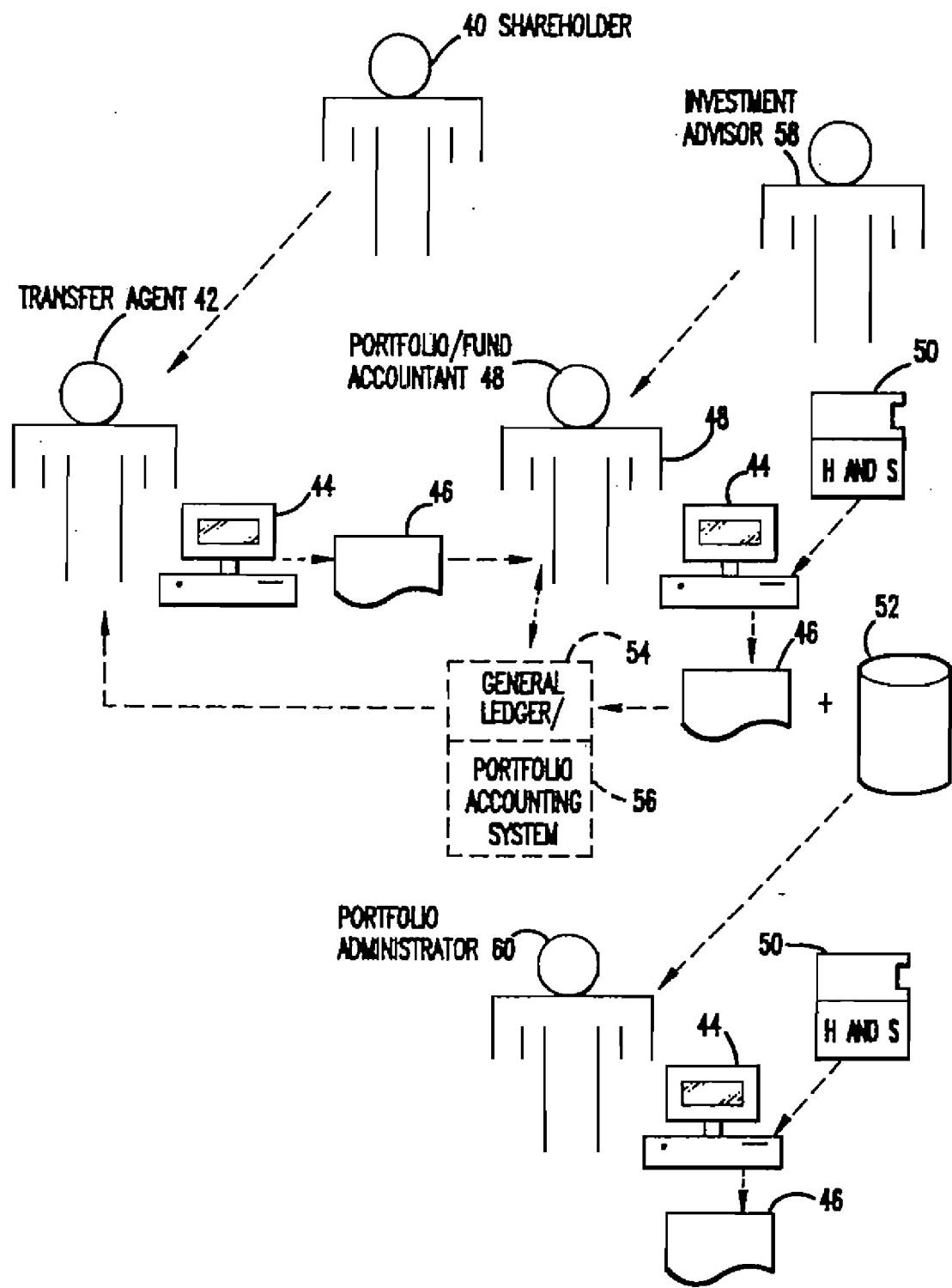


FIG.4

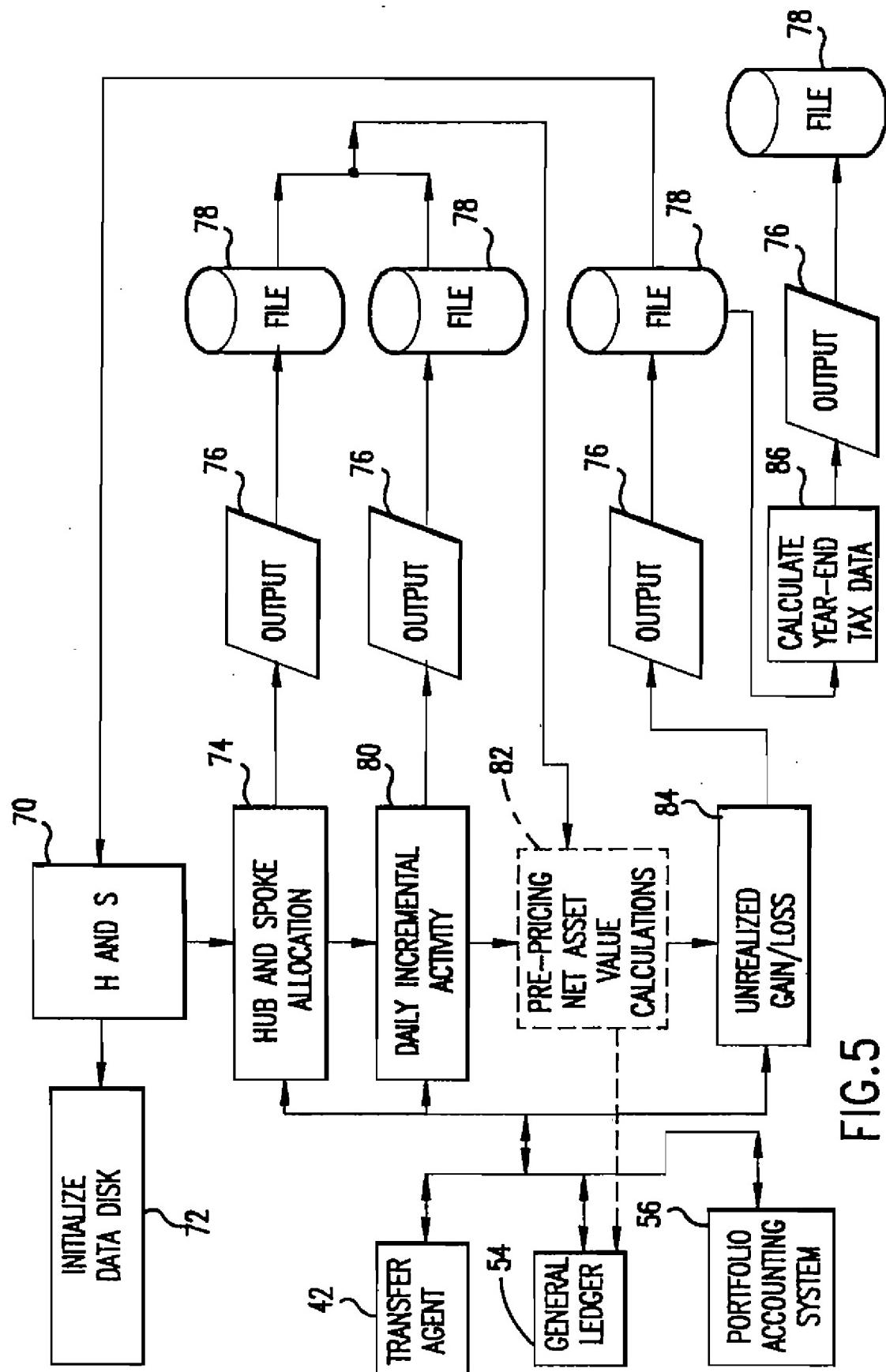


FIG. 5

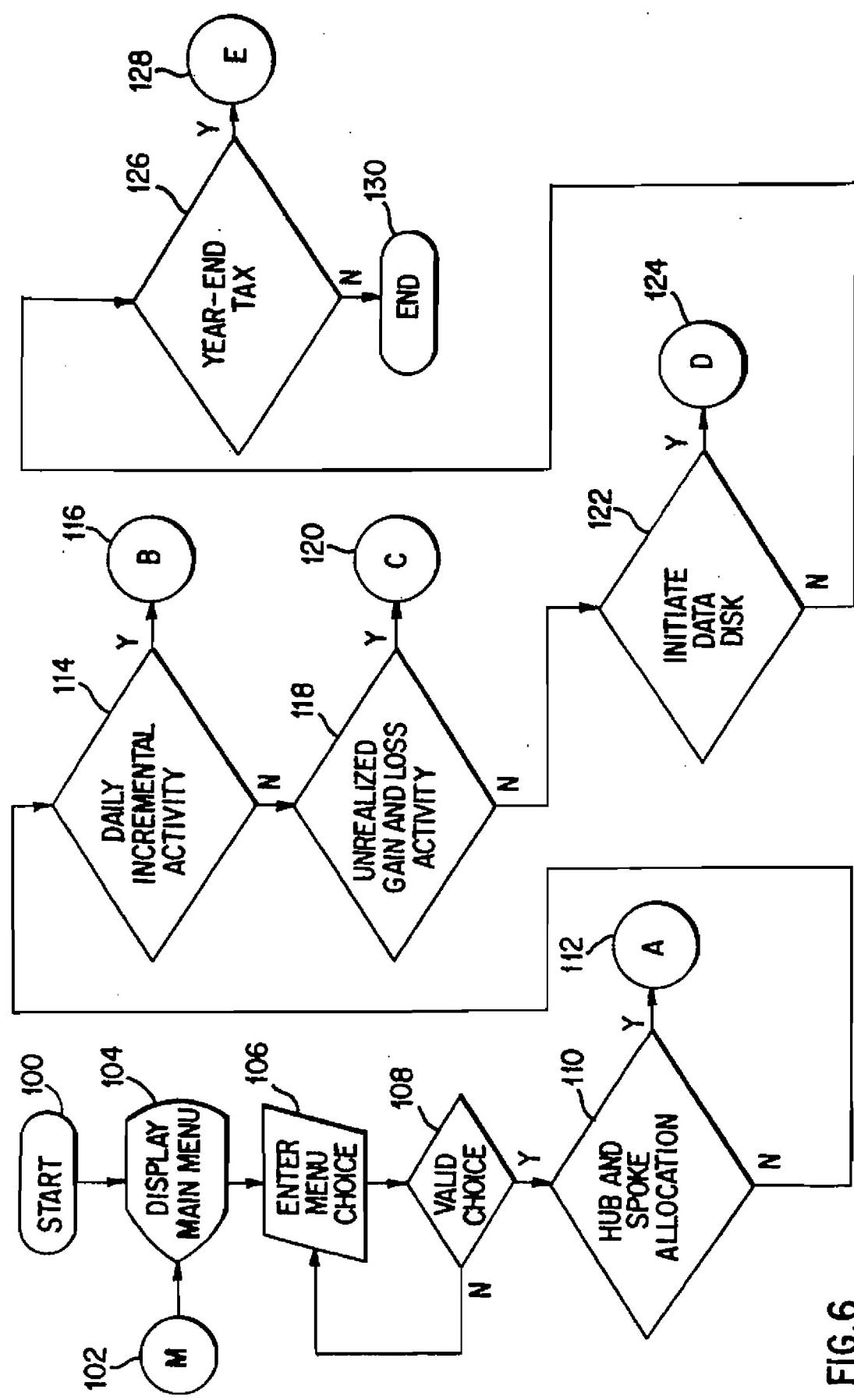


FIG. 6

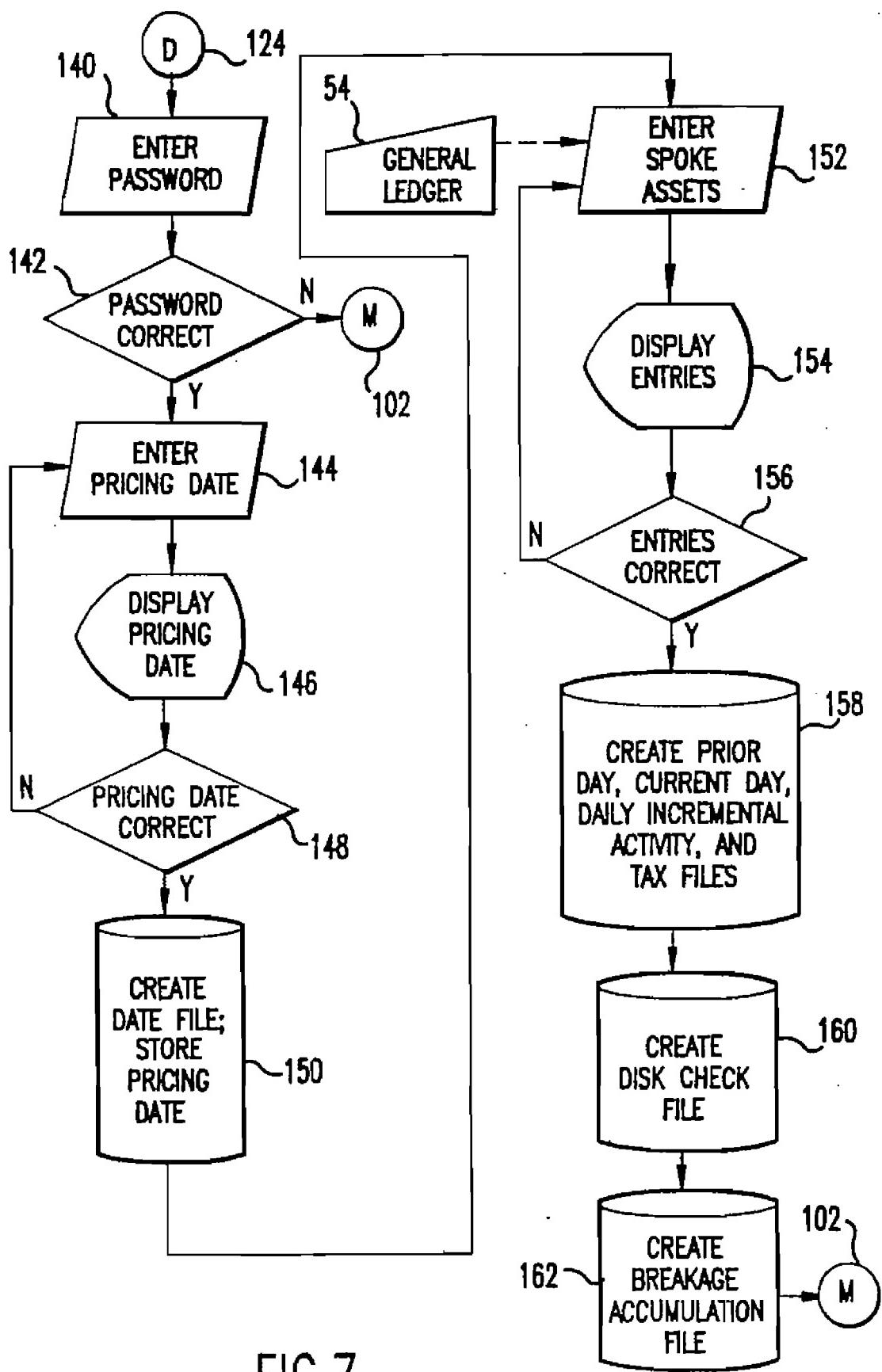


FIG. 7

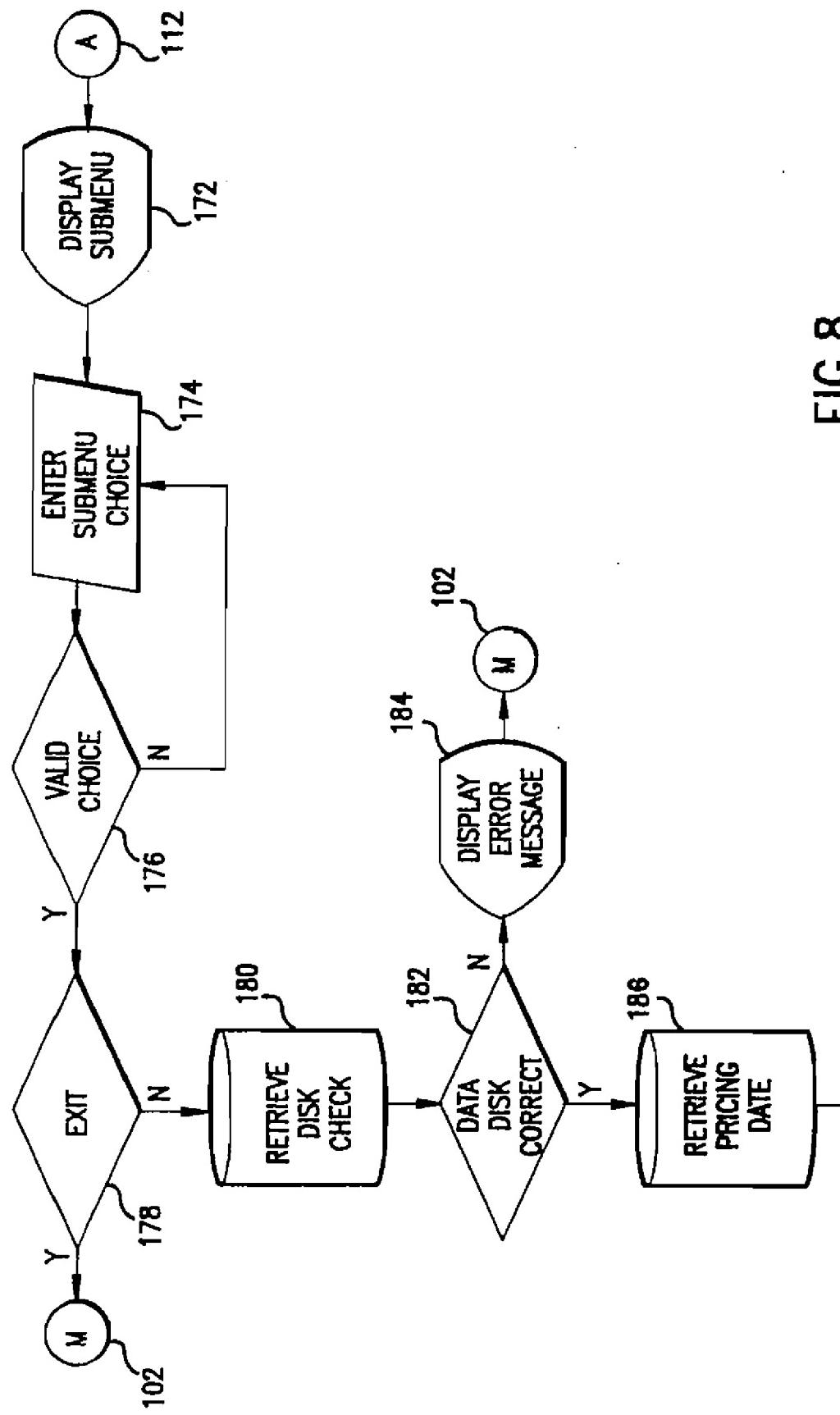


FIG. 8

(CONT. ON SECOND SHEET)

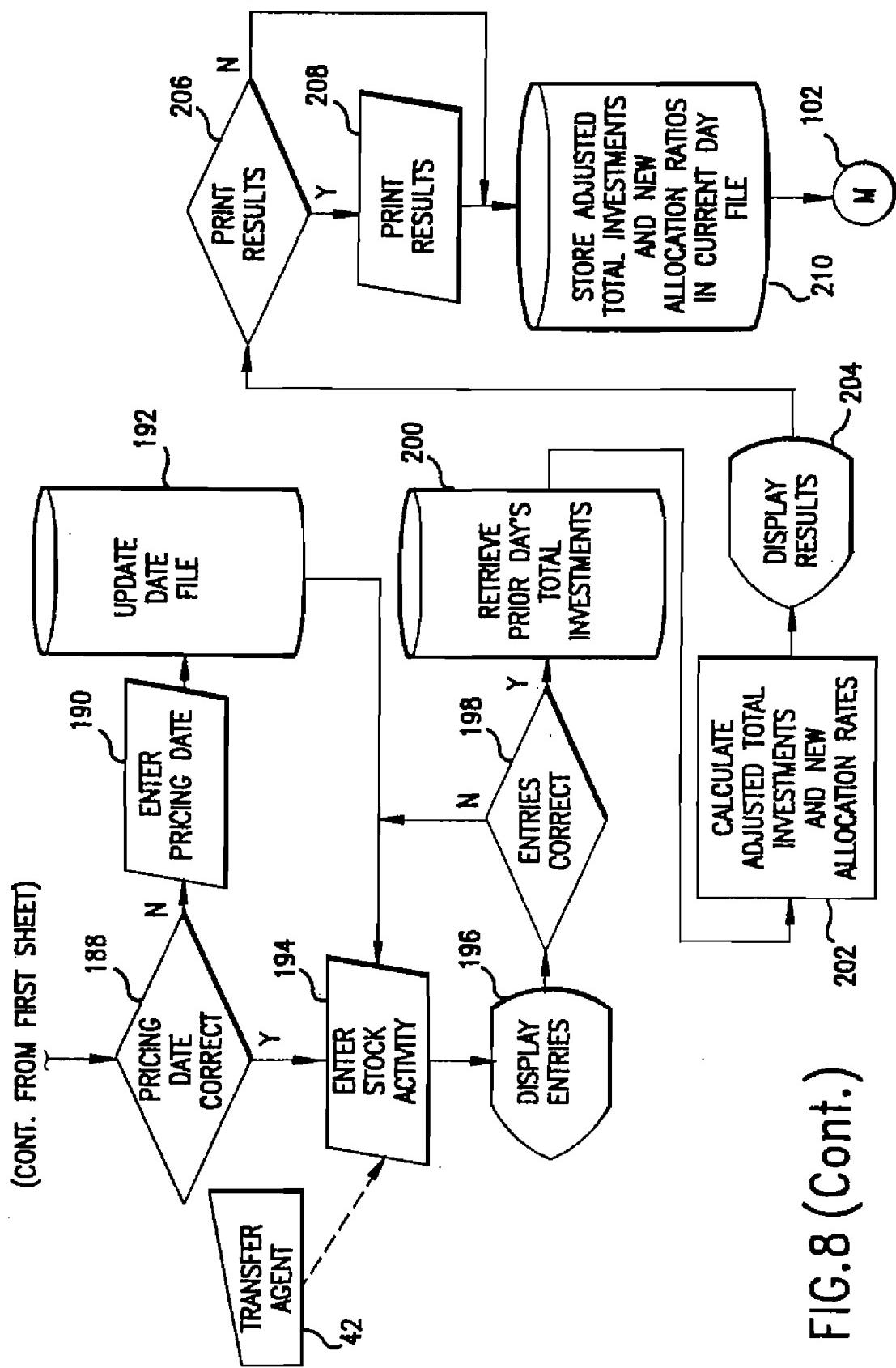


FIG.8 (Cont.)

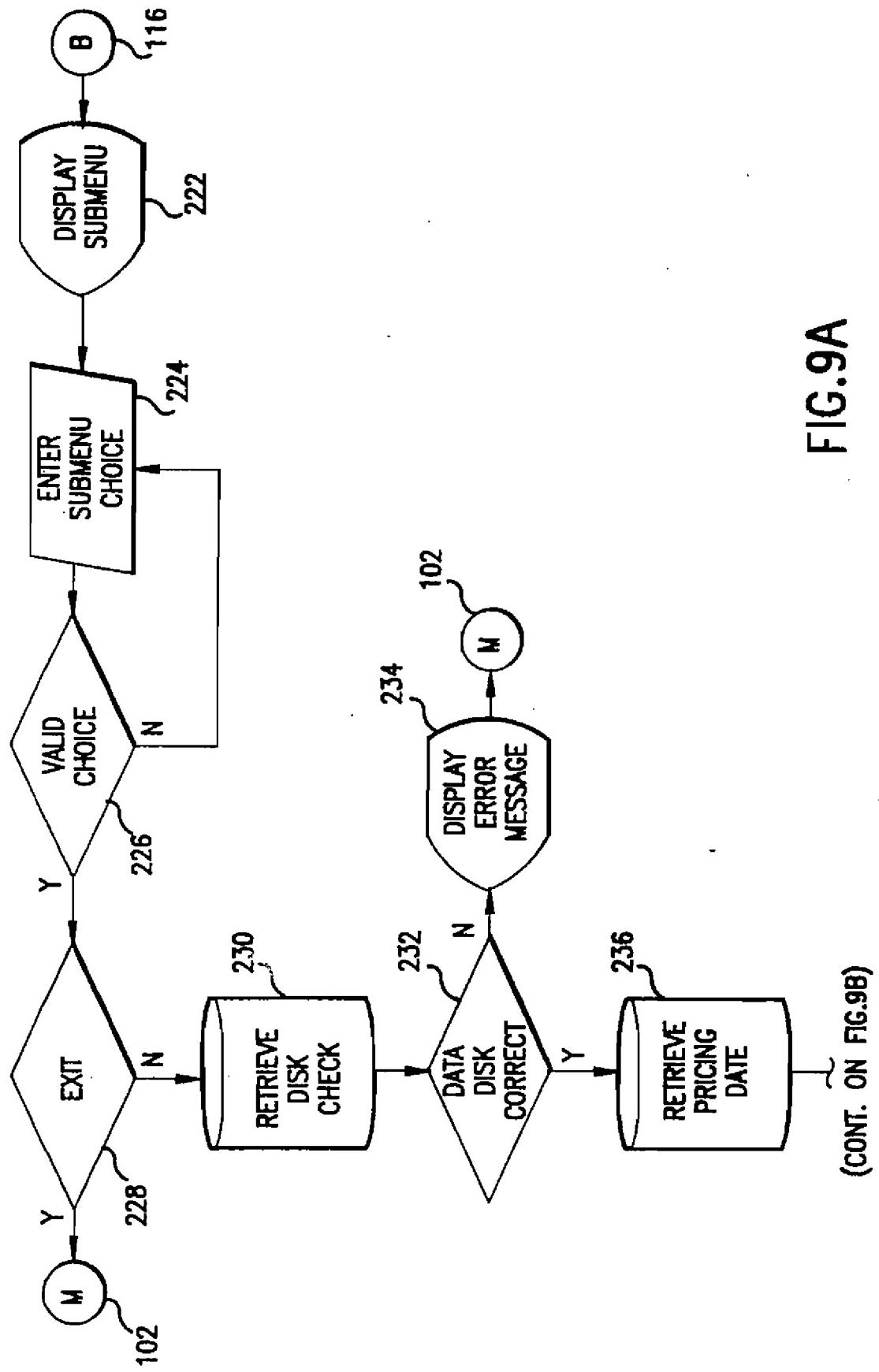
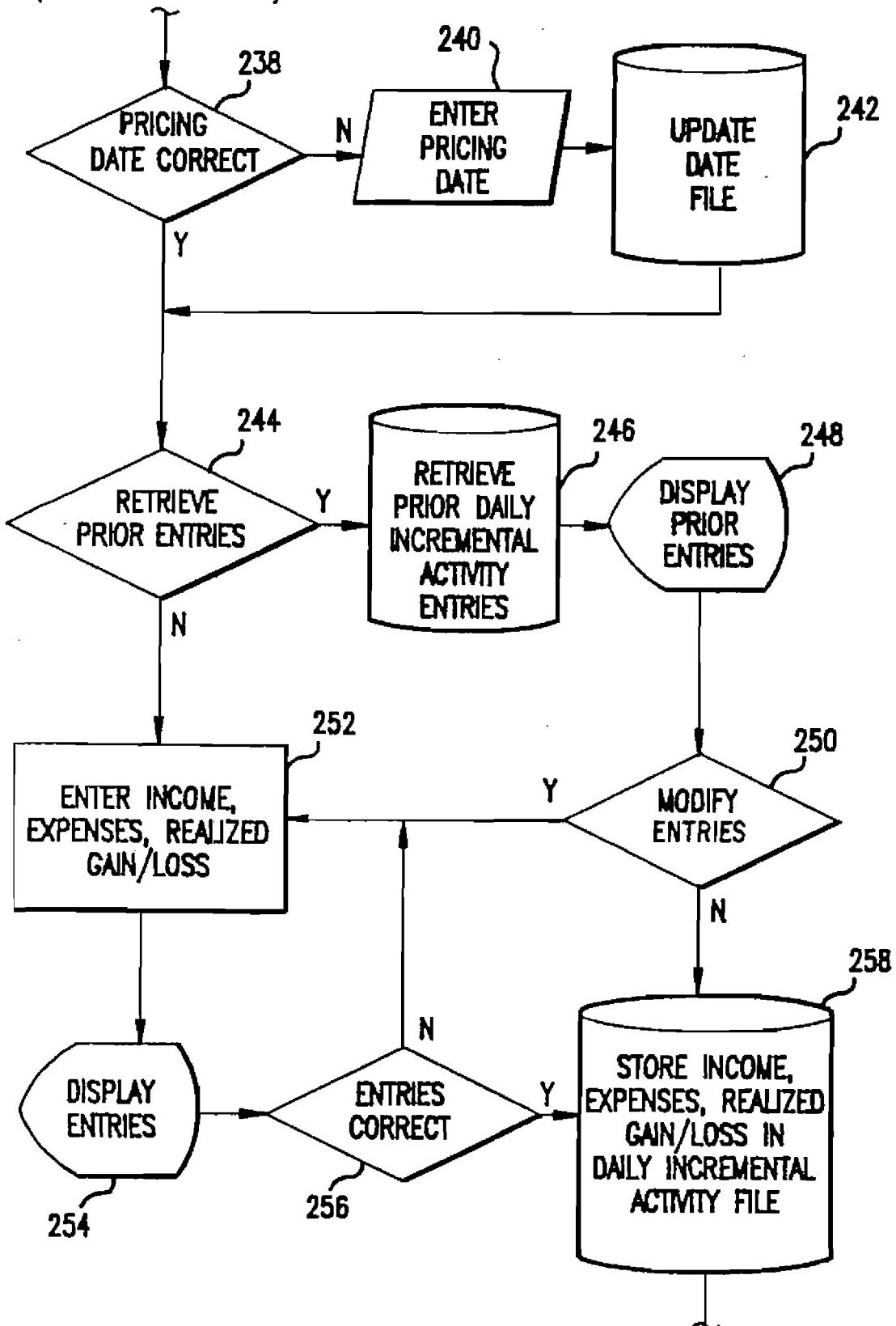


FIG.9A

(CONT. ON FIG.9B)

(CONT. FROM FIG.9A)



(CONT. ON FIG.9C)

FIG.9B

(CONT. FROM FIG.9B)

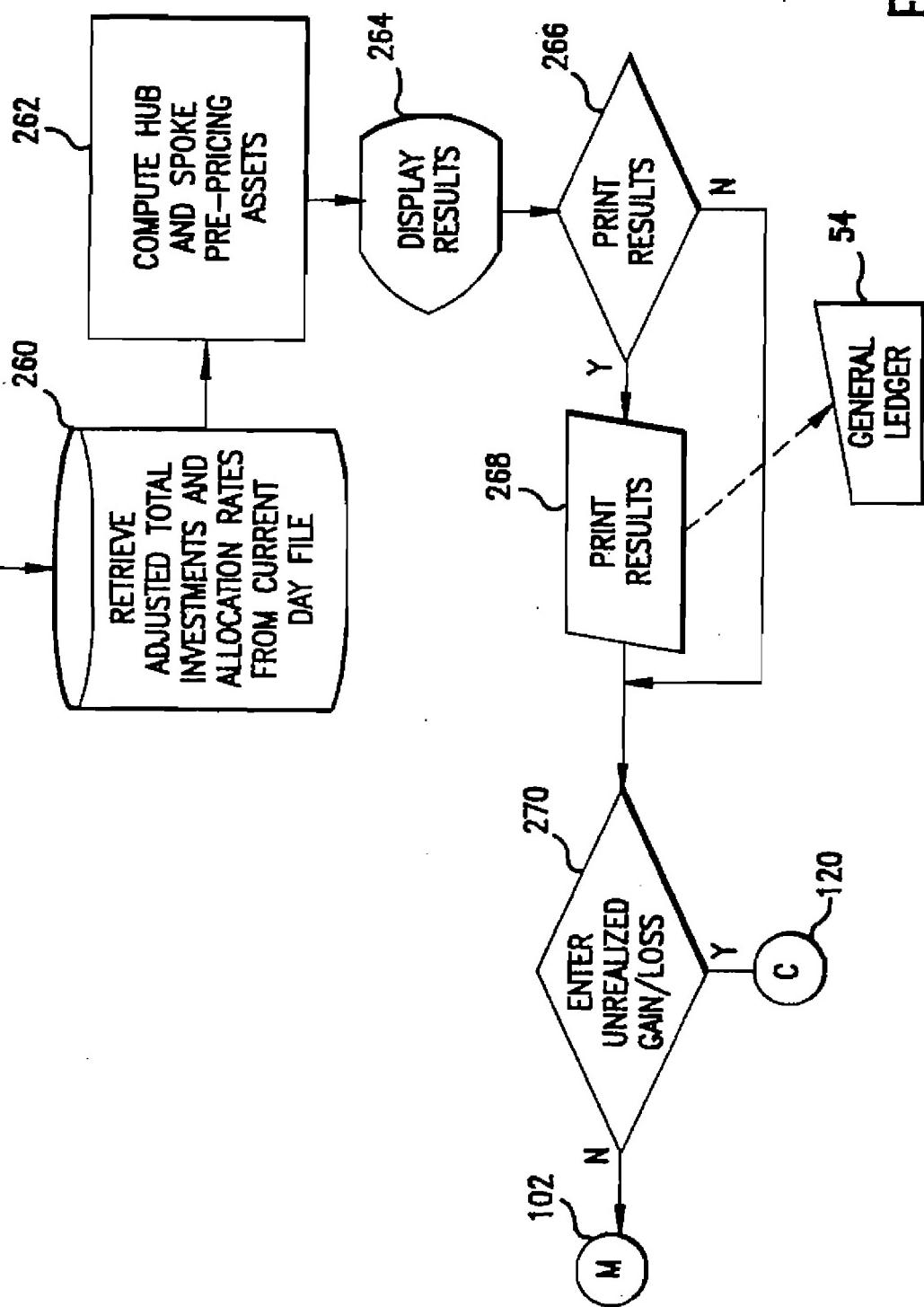
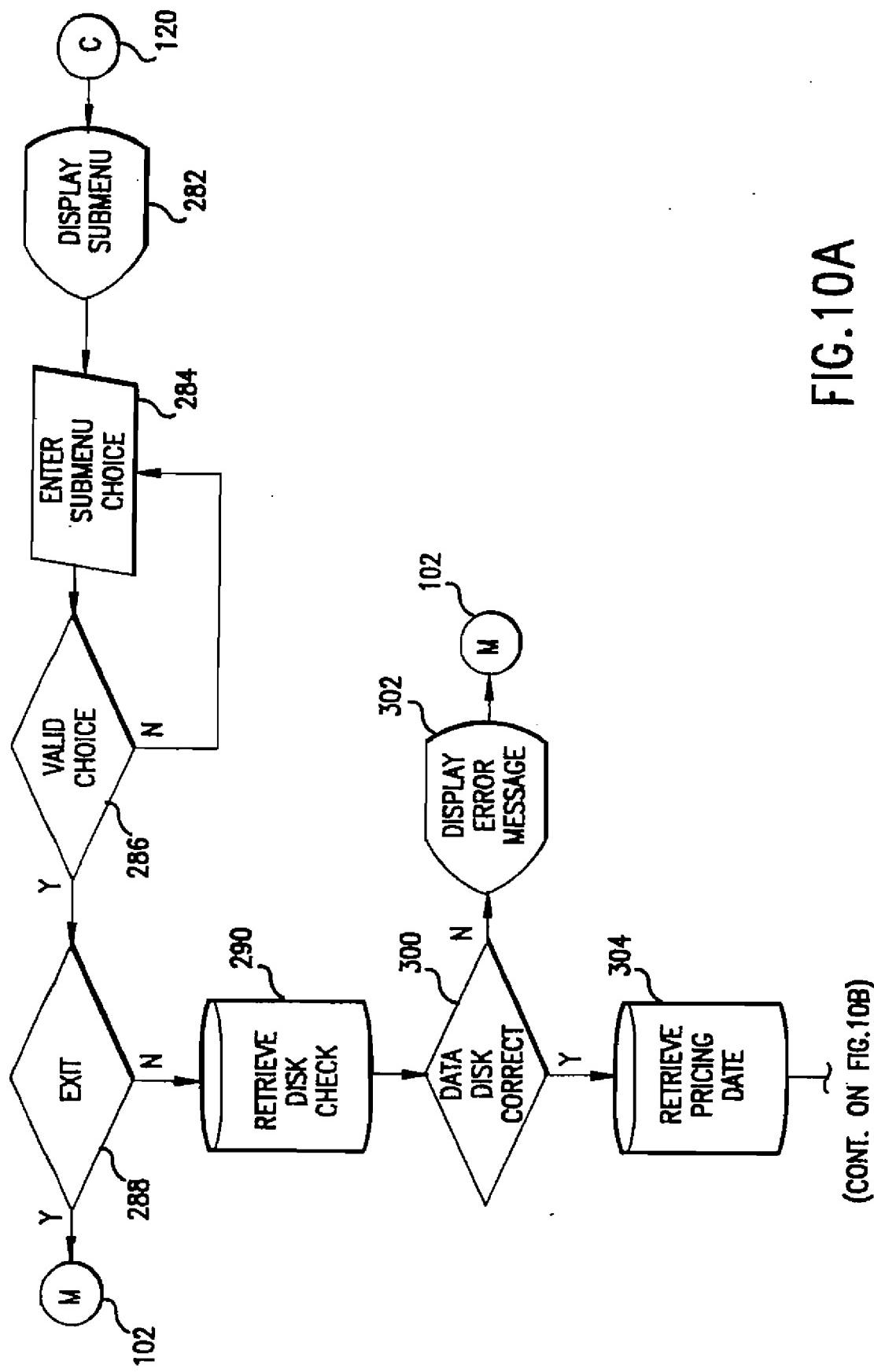


FIG.9C



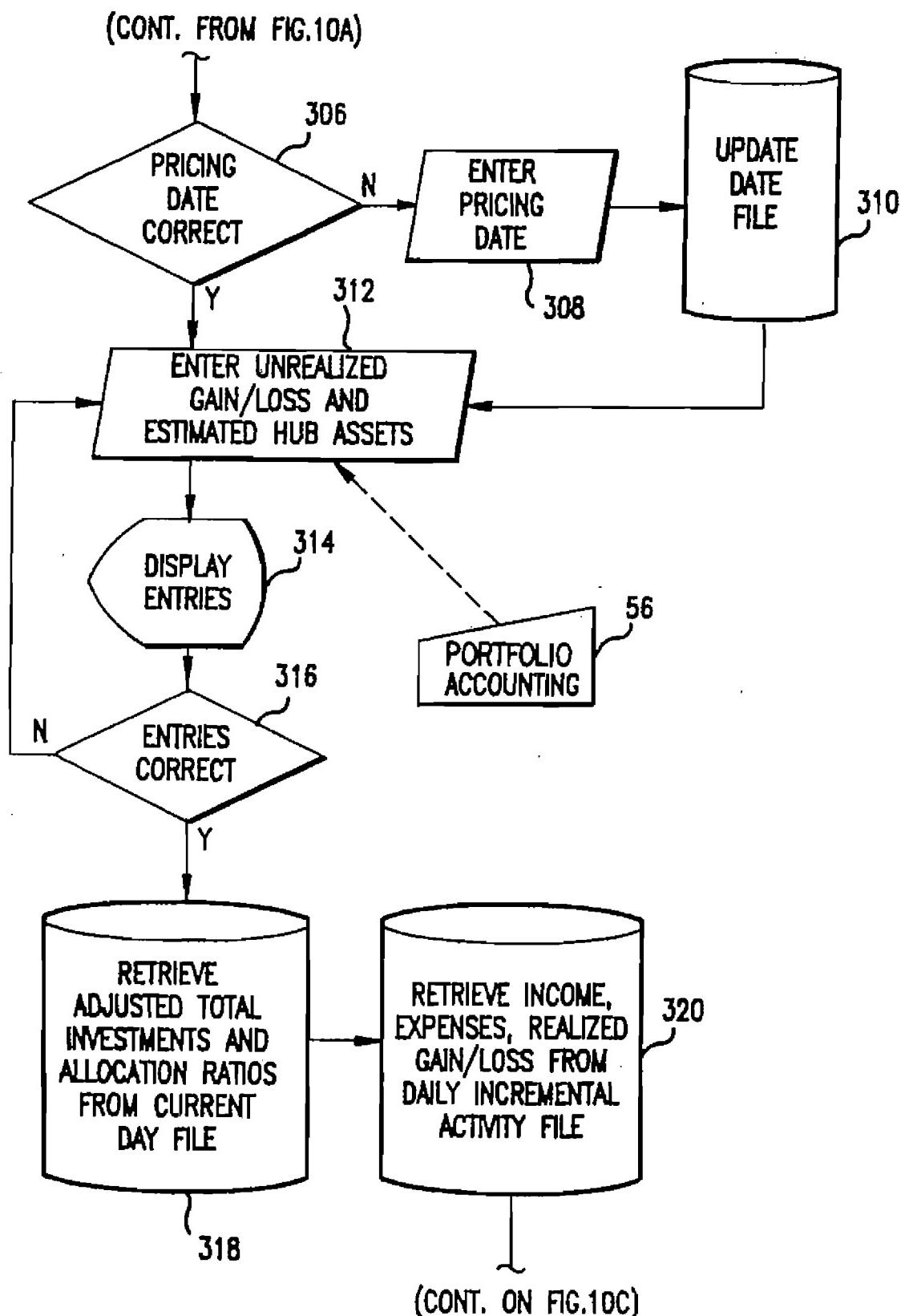


FIG.10B

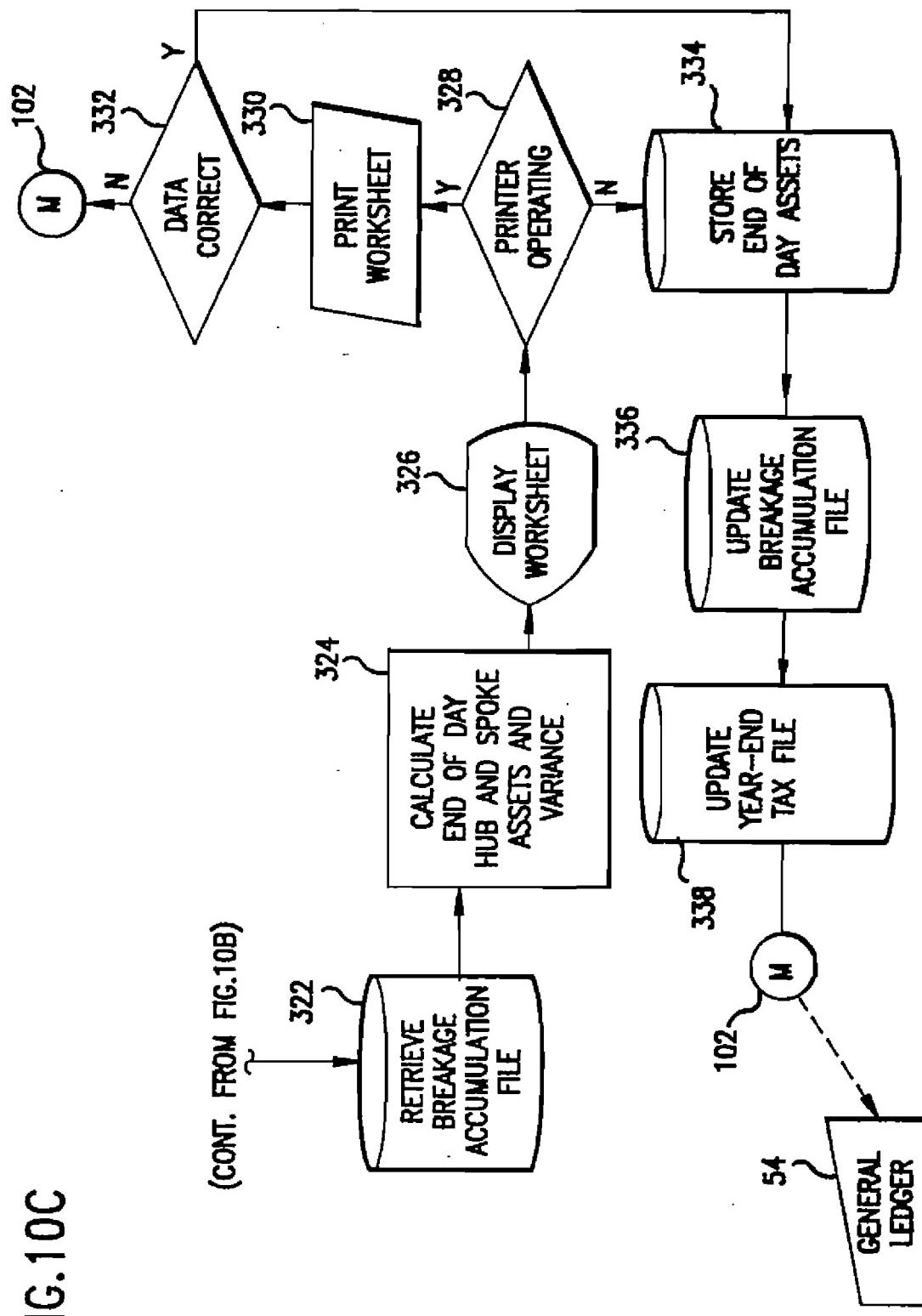
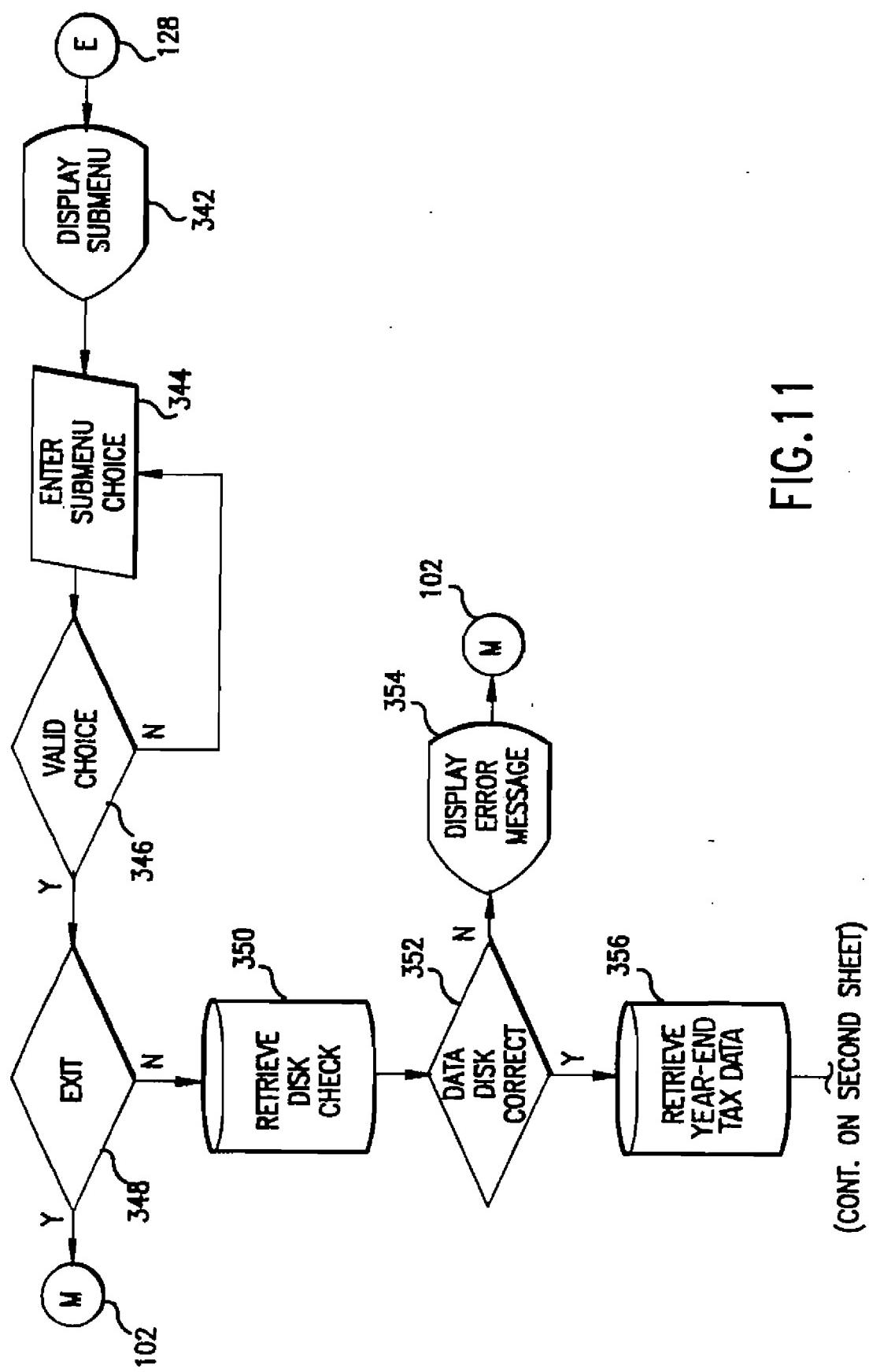


FIG.10C



(CONT. FROM FIRST SHEET)

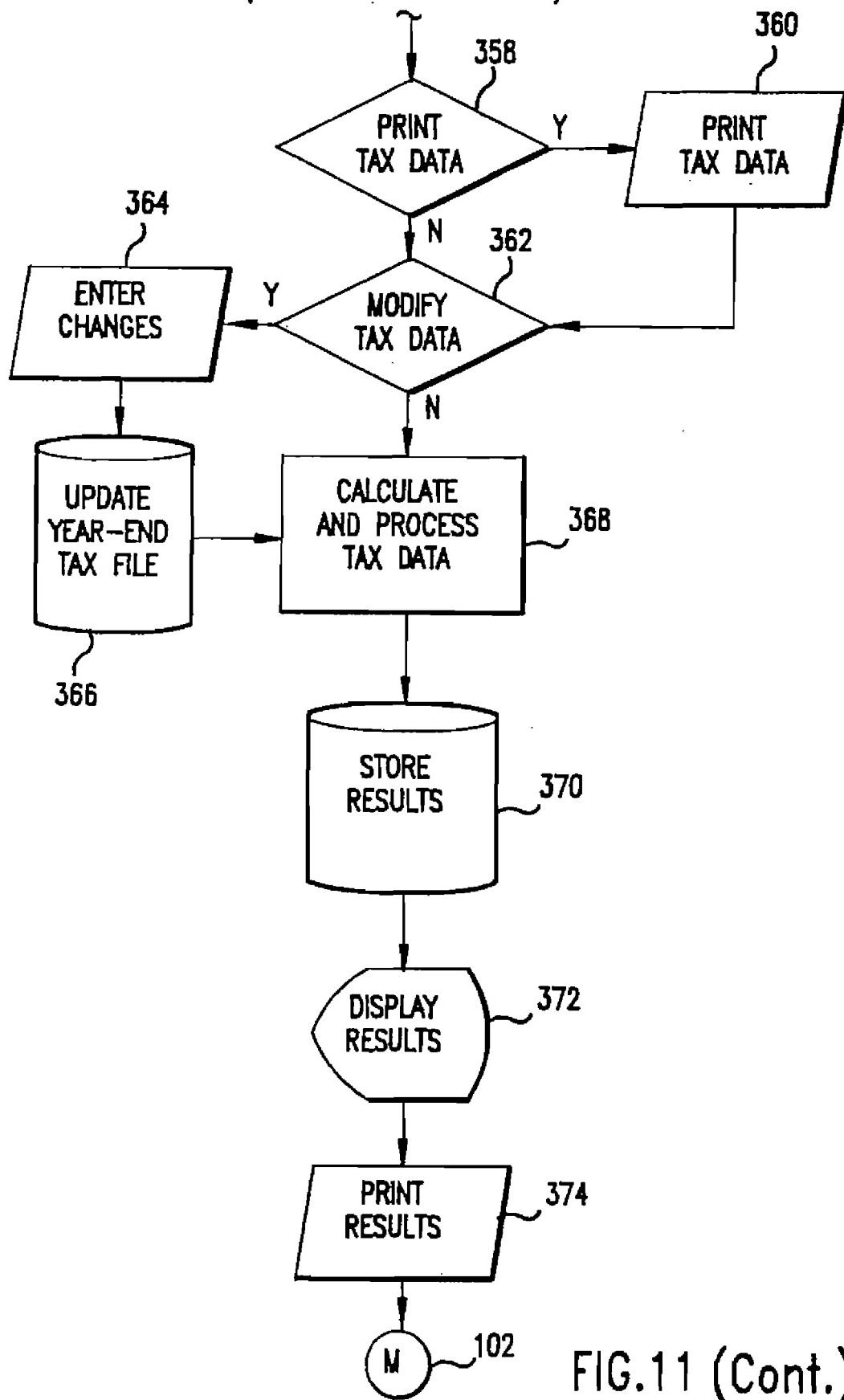


FIG.11 (Cont.)

DATA PROCESSING SYSTEM FOR HUB AND SPOKE FINANCIAL SERVICES CONFIGURATION

BACKGROUND OF THE INVENTION

Investment vehicles such as mutual funds have certain operating costs. To name just a few expenses, every fund, including institutional funds (whose investors are financial institutions), pays an investment advisory fee to an investment adviser who invests the fund's assets, custodian fees to a custodian for the safekeeping of the fund's assets, portfolio accounting fees for the determination of the fund's asset value and income, shareholder servicing fees to various entities which provide investors with information and services regarding the fund, an audit fee to the fund's independent accountants who review the fund's financial statements, and a legal fee for counsel to represent the fund and each of its independent trustees. A retail fund (one whose investors are largely individuals) incurs the same kinds of expenses as an institutional fund, although certain expenses, such as shareholder servicing fees and distribution (12b-1) fees, will be larger for a retail fund, since individual investors need more services than do sophisticated institutional investors.

Having a large amount of assets results in various economies of scale in fund operating costs. Since many of a fund's expenses are independent of the fund's asset base, a larger fund asset base produces a lower operating expense ratio (expenses to assets), which increases the net investment performance of the fund. Also, since larger funds purchase securities in larger denominations, they are able to bargain for higher yields (on bonds and other debt securities) or pay lower brokerage commissions (on equity securities) than a smaller fund can.

One way to achieve a large asset base is to combine assets of two or more mutual funds or other collective investment vehicles (hereafter referred to as funds). Current laws, however, place several restrictions on commingling the assets. A newly developed financial services configuration, called "Hub and Spoke" (a service mark of Signature Financial Group, Inc.), does allow for commingling the assets of two or more mutual funds. This financial services configuration involves an entity that is treated as a partnership for federal income tax purposes and that holds the investment portfolio (hereafter referred to as the partnership portfolio) and funds that invest as partners in the partnership portfolio.

Under the partnership portfolio and partner fund configuration, each of several funds, called "Spokes" (a service mark of Signature Financial Group, Inc.), can be a mutual fund registered under the Investment Company Act of 1940 (the "1940 Act") and the Securities Act of 1933 (the "1933 Act"). In addition to mutual funds, a "Spoke" (a service mark of Signature Financial Group, Inc.) may also be a pension fund (subject to ERISA), a common trust fund (regulated by various banking regulators), an insurance company separate account, or a non-U.S. domiciled investment fund. In addition, a partnership portfolio, called the "Hub" (a service mark of Signature Financial Group, Inc.), is established, and each fund is an investor in the partnership portfolio. The partnership portfolio is registered under the 1940 Act (since it is an investment company), but its shares are not registered under the 1933 Act. Individuals cannot invest directly in the partnership

portfolio. Its only investors are the funds, each of which invests 100% of its assets in the portfolio.

Although the portfolio may legally be a trust or other entity, it is considered to be a partnership for tax purposes. As a partnership, it receives "flow-through" tax treatment and, so, the portfolio does not pay taxes, but rather all economic gain or loss flows through to the portfolio investors. Mutual funds must rely on qualifying for "regulated investment company" ("RIC") status under the Internal Revenue Code (the "Code") to avoid taxation. The RIC provisions of the Code generally prevent mutual funds from investing in other types of funds and impede the division of a single mutual fund into multiple mutual funds. These RIC provisions also lead to economic distortions and inequities among shareholders which will be discussed below.

With the assets of two or more funds combined in the portfolio, the economies of scale described above can be more fully realized. The assets of different types of investment vehicles may now be commingled, resulting in more efficient and effective investment management. While all funds can benefit from Hub and Spoke services, a fund with a small amount of assets, which ordinarily would not be a viable fund because it would have a prohibitively high operating expense ratio, can now be established on a cost-effective basis by investing its assets in a portfolio. Investing in a portfolio also provides the new fund with an investment history, which makes the fund more attractive to investors. Therefore, a mutual fund sponsor can more efficiently organize a new mutual fund to be offered to customer markets which previously could not be economically accessed by that sponsor.

Because the portfolio is not a mutual fund, it is not subject to certain economic distortions and inequities that are inherent to normal mutual fund investing. Consider a first fund which invests in a second mutual fund just before the second fund distributes its capital gains. The first fund realizes capital gains from this distribution, as does every shareholder of the second fund. The first fund, however, has not actually realized any gain in the value of the second fund, and so the second fund is merely returning a portion of the first fund's original investment. The first fund is required to pay tax on part of its original investment or, if it is a mutual fund, pass such tax on to its shareholders. Thus a return of investment becomes subject to tax.

Unlike a mutual fund, the portfolio makes daily allocations of income, capital gains, and expenses or investment losses, rather than actual distributions. These daily allocations, which are determined and managed by the data processing system and method disclosed herein, are based on an "allocation ratio" which is further described below. Such daily allocations avoid economic distortions and inequities by directly allocating the appropriate economic benefit and loss to each shareholder on that day. Mutual funds merely distribute income, and gain or loss, to whatever shareholders happen to exist on an arbitrary date when a distribution is made. While such gain or loss is taken into account in between such distributions through the determination of the net asset value of the mutual fund's shares, it is the distribution of the gain or loss which creates a taxable gain or loss for a shareholder. The Hub and Spoke financial services configuration thus avoids this disadvantage by more accurately matching economic and taxable income.

The partnership portfolio and partner fund configuration presents great administrative challenges. Because

each of the partners in the portfolio is some type of fund, the assets of which change daily as customers make further investments or withdrawals, the partnership interest of each fund varies daily. For example, consider a portfolio made up of Funds A and B. Assume that at the start of the day Fund A has \$750,000 invested in the portfolio and Fund B has \$250,000 invested. The portfolio has \$1,000,000 in assets with Fund A having a 75% share and Fund B having a 25% share. Next, assume that by the end of the day the portfolio has not changed in value due to market fluctuations, but that additional purchases by fund shareholders have given Fund A \$800,000 in assets and Fund B \$275,000 in assets. The portfolio has grown to \$1,075,000 in assets, with Fund A having a 74.4% share and Fund B having a 25.6% share.

Further complexities arise as the value of the portfolio assets rise and fall or as additional funds invest in the portfolio (or as existing funds withdraw their investments entirely). Additionally, as in any mutual fund complex, many Hub and Spoke structures may be administered simultaneously. A new and unique data processing system and method is necessary to enable accurate daily allocations to be made among each of the funds in a portfolio. Also, each such daily allocation is comprised of various economic components—income, gain, loss, expenses. These various components must be isolated and aggregated, on a continual basis, for both non-tax accounting purposes and, again (in separate accounts), for tax purposes.

Economic inaccuracies would appear over time if daily allocations were not made. Such inaccuracies will arise since typically a mutual fund will not actually allocate or pay out on a daily basis the economic components of the fund's economic experience for that day. Depending on a particular fund's prospectus, actual cash distributions can be made monthly, quarterly, or as otherwise so determined.

Were the partnership portfolio structured as a mutual fund, which makes distributions on a periodic basis, income earned on a given day, if not allocated on that day would result in an increase in capital value of the fund as a whole, rather than in income received by a particular investor; similarly, expenses incurred, if not allocated on that day, would result in a decrease in capital value of the fund as a whole, rather than as a decrease in income for a particular investor. The data processing system and method of the present invention will allow each fund to recognize on its balance sheet its fair share of economic benefit or loss experienced by the portfolio on that day.

A unique method has been developed to calculate accurately the fund allocation ratios. Each fund has a book capital account, which represents each fund's total investment in the portfolio including all earned, but undistributed, economic benefit. This book capital account for each fund includes the previous day's fund shareholder purchases and redemptions, the fund's proportional share of daily portfolio income and expenses, and the fund's share of daily portfolio realized and unrealized gain or loss.

On each fund's first day as a portfolio investor, or on the beginning of each fiscal year that a fund continues to participate in a Hub and Spoke configuration, its respective share ownership in the portfolio is determined by its relative percentage of the total dollar amount of investments in the portfolio. Thereafter, the fund's allocation percentage is adjusted through proper adjust-

ments to the book capital account balances of the participating funds (which a data processing system according to the present invention determines daily). The respective fund book capital accounts, which change every day, continually indicate the accurate relative ownership of the portfolio by each fund. Each fund's book capital account will be either increased or decreased daily depending upon the following:

- (a) increased by any capital contributions (purchases by fund shareholders) made by the fund to the portfolio;
- (b) decreased by any distributions (including portfolio expenses and redemptions by fund shareholders) made to the fund by the portfolio;
- (c) increased by any increase in net unrealized gains or decrease in net unrealized losses allocated to the fund;
- (d) decreased by any decrease in net unrealized gains or increase in net unrealized losses allocated to the fund; and
- (e) increased or decreased by the amount of profit (portfolio income) or loss (portfolio expenses), respectively, allocated to the fund.

A data processing system and method according to the present invention successfully determines each of these ever changing, and interrelated, accounts. By calculating the daily adjusted total investments for each fund according to the concept of a book capital account, the allocation ratios may be calculated accurately. The data processing system also determines, each day and over time, data necessary for calculating aggregate year-end income, expenses, and capital gain or loss for tax and accounting purposes.

SUMMARY OF THE INVENTION

The present invention provides a data processing system and method for monitoring and recording the information flow and data, and making all calculations, necessary for maintaining a partnership portfolio and partner fund (Hub and Spoke) financial services configuration. In particular, the data processing system provides means for a daily allocation of assets of two or more funds (Spokes) that are invested in a portfolio (Hub). The data processing system determines the percentage share (allocation ratio) that each fund has in the portfolio, while taking into consideration daily changes both in the value of the portfolio's investment securities (as determined by market prices) and in the amount of each fund's assets (as determined by daily shareholder purchases and redemptions). The system also allocates to each fund the portfolio's daily income, expenses, and net realized and unrealized gain or loss, calculating each fund's total investments based on the concept of a book capital account, thus enabling determination of a true asset value of each fund and accurate calculation of allocation ratios between the funds. The data processing system also tracks all the relevant data, determined on a daily basis for the portfolio and each fund, so that aggregate year-end income, expenses, and capital gain or loss can be determined for accounting and for tax purposes for the portfolio and for each fund.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a block diagram representation of a partnership portfolio and partner fund (Hub and Spoke) financial services configuration.

FIG. 2 is an example of the operating expenses in maintaining a traditional two-fund configuration.

FIG. 3 is an example of the operating expenses in maintaining the two funds of FIG. 2 in a Hub and Spoke configuration.

FIG. 4 depicts an overview of the flow of information in the management of a Hub and Spoke configuration using a data processing system according to the present invention.

FIG. 5 depicts the flow of information through modules of software used in a data processing system according to the present invention.

FIG. 6 is a flowchart of a software routine for a main menu used in a data processing system according to the present invention.

FIG. 7 is a flowchart of a software routine for initializing a data disk used in a data processing system according to the present invention.

FIG. 8 is a flowchart of a software routine for daily allocation of assets between a portfolio and its funds used in a data processing system according to the present invention.

FIGS. 9A-C are a flowchart of a software routine for allocation of daily incremental activity used in a data processing system according to the present invention.

FIGS. 10A-C are a flowchart of a software routine for allocation of daily unrealized gain or loss used in a data processing system according to the present invention.

FIG. 11 is a flowchart of a software routine for calculating and processing year-end capital gain and loss data used in a data processing system according to the present invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

The present invention is directed to a data processing system and method for use in managing a partnership portfolio and partner fund (Hub and Spoke) financial services configuration. Such a data processing system is used once the Hub and Spoke configuration has been established, in which the assets of two or more funds are invested in a portfolio. FIG. 1 depicts an example of a Hub and Spoke configuration involving four different mutual funds. A portfolio (Hub) 2, which is set up as a partnership as described above, has as its partners and only investors funds (Spokes) 4, 6, 8, and 10. In the example shown, fund 4 is a load fund, fund 6 is a low-load fund, fund 8 is a no-load fund, and fund 10 is a common trust fund. Each of funds 4, 6, 8, and 10 have shareholders 5, 7, 9, and 11, respectively, with fund 10 having trusts as its shareholders 11.

One advantage of the Hub and Spoke configuration structure may be seen by comparing the example of a traditional two-fund configuration depicted in FIG. 2 with the two-fund Hub and Spoke configuration of FIG. 3.

FIG. 2 presents the expense profiles for institutional fund 20, with assets of \$150 million, and retail fund 22, with assets of \$100 million, when maintained in a traditional structure. Each has the following expenses: investment advisory fees, administrative fees, custody fees, custody transaction fees, portfolio accounting fees, legal fees, audit fees, trustees fees and expenses, shareholder servicing fees, 12b-1 expenses, organization expenses, and miscellaneous fees. The total cost is 57 basis points for institutional fund 20 and 103 basis points for retail fund 22.

An example of the same two funds in a Hub and Spoke structure is depicted in FIG. 3, which shows the

expense profiles of the portfolio and each fund. Specifically, portfolio (Hub) 24 has the following expenses: investment advisory fees, administrative fees, custody fees, custody transaction fees, portfolio accounting fees, legal fees, audit fees, trustees fees and expenses, and miscellaneous fees. The investors in portfolio 24 are an institutional fund (Spoke A) 26 and a retail fund (Spoke B) 28. As with funds 20 and 22 in FIG. 2, institutional fund 26 has assets of \$150 million and retail fund 28 has \$100 million in assets.

Funds 26 and 28 pay the expenses of portfolio 24 in proportion to the percentage share (as determined by the book capital accounts) each holds in the portfolio, as shown on the line item "ALLOCATION OF HUB EXPENSES" for funds 26 and 28. In addition, each fund has the following expenses of its own: administrative fees, legal fees, audit fees, trustees fees and expenses, printing fees, shareholder servicing fees, 12b-1 expenses, organization expenses, and miscellaneous fees.

As FIG. 3 shows, in the Hub and Spoke financial services configuration such expenses as investment advisory fees, custody fees, custody transaction fees, and portfolio accounting fees are paid only at the Hub level (i.e., by the portfolio). Thus, expenses are lower under the Hub and Spoke configuration: institutional fund 26 shows total expenses of 55 basis points as compared with the 57 basis points for traditionally structured institutional fund 20, and retail fund 28 shows expenses of 95 basis points as compared with the 103 basis points for traditionally structured institutional fund 22.

FIG. 4 presents an overview of the information flow that occurs in the management of a Hub and Spoke financial services configuration. A shareholder 40 requests purchases or redemptions of shares in a fund from a transfer agent 42. Transfer agent 42 is responsible for tracking the shareholder activity for each fund, which is accomplished with the aid of a personal computer 44 capable of producing printed output 46. Information on shareholder purchases and redemptions for each fund is passed to a portfolio/fund accountant 48.

Portfolio/fund accountant 48 is responsible for the portion of managing the Hub and Spoke configuration that involves allocation of portfolio assets among each of its funds, taking into account market value fluctuations in the portfolio's investments of its assets as well as shareholder purchases and redemptions in each fund. The portfolio/fund accountant makes use of a personal computer 44 programmed with software 50. One example of software 50 is the "HandS" (a service mark of Signature Financial Group, Inc.) computer program.

The personal computer 44 used by portfolio/fund accountant 48 is capable of producing printed output 46 and storing data on data disk 52, which preferably is a floppy disk, although other types of storage media may be used. Portfolio/fund accountant 48 receives information from and provides information to a general ledger 54 and a portfolio accounting system 56, both of which are computer programs of a type commonly used in accounting and which may be combined in a single software application. An integrated software package may combine software 50 with either or both of general ledger 54 and portfolio accounting system 56. Information from printed output 46 may be entered into general ledger 54 and portfolio accounting system 56 and then passed along to transfer agent 42. Portfolio/fund accountant 48 also provides information to and receives information from an investment advisor 58, who is re-

sponsible for investment decisions regarding the portfolio's assets.

Information on data disk 52 is transferred to a portfolio administrator 60. The Hub and Spoke management responsibilities of portfolio administrator 60 include issuing and maintaining software 50, periodically reviewing for errors in data submitted by portfolio/fund accountant 48, and calculating and processing data to obtain the year-end data for the portfolio and funds for tax and accounting purposes. Portfolio administrator 60 uses personal computer 44 running software 50 and capable of producing printed output 46. Typically, portfolio administrator 60 manages several separate Hub and Spoke configurations.

The information flow depicted in FIG. 4 may be accomplished in whole or in part by physical transfer of printed or computer-readable media, or over communication lines.

FIG. 5 depicts the information flow through modules of software 50, with the starting point of software 50 represented by block 70. When necessary, a user, typically portfolio administrator 60, initializes data disk 52, as shown in block 72. Specifically, data disk 52 is initialized the first day a Hub and Spoke configuration is administered, when a new Spoke is added to the Hub, when an existing Spoke is dropped from the Hub, or when a new fiscal year for a Hub and Spoke structure begins.

On a daily basis (i.e., once for every business day), a user, typically portfolio/fund accountant 48, proceeds from the starting point at block 70 to the following software modules: Hub and Spoke allocation, at block 74; daily incremental activity, at block 80, and unrealized gain/loss, at block 84. At each of those modules, data may be output, as shown at blocks 76, or stored in a file on data disk 52, as shown at blocks 78. The modules at blocks 74, 80, and 84 may send information to and receive information from transfer agent 42, general ledger 54, and portfolio accounting system 56. Following execution of the unrealized gain/loss module, at block 84, software 50 returns to the starting point, at block 70, so that execution of the modules at blocks 74, 80, 82, and 84 may be repeated for the next day.

In addition, following completion of the daily incremental activity module (block 80), data developed in that module and from the Hub and Spoke allocation module (block 74) is automatically passed to a pre-pricing net asset value calculations module, at block 82, and the data developed in that module may be passed to general ledger 54. Once a year, a user, typically fund administrator 60, will have software 50 proceed to a calculate year-end tax data module, shown at block 86. Again, the system can produce output, at block 76, and store data, at block 78.

FIG. 6 is a flowchart depicting a main menu routine for software 50 to be used in a data processing system according to the preferred embodiment of the present invention. The system starts at block 100 and proceeds to block 104, where a main menu is displayed, for example, on the CRT of a personal computer. Entry point M as shown in block 102 is provided to allow other routines to return to the main menu routine.

The system next proceeds to block 106, where the user enters a one-letter menu choice. At block 108, the system determines whether a valid menu choice was entered. If not, the system returns to block 106 for the user to enter a menu choice; if so, the system proceeds to block 110. There, the system determines whether a

Hub and Spoke allocation routine was selected by the user from the main menu. If so, the system proceeds to that routine via entry point A, shown in block 112; if not, the system proceeds to block 114. At block 114, the system determines whether a daily incremental activity routine was selected by the user. If so, the system proceeds to that routine via entry point B, shown in block 116; if not, the system proceeds to block 118. Here, the system determines whether an unrealized gain or loss activity routine was selected by the user. If so, the system proceeds to that routine via entry point C, shown in block 120; if not, the system proceeds to block 122. At that block, the system determines whether an initiate data disk routine was selected. If so, the system proceeds to that routine via entry point D, shown in block 124; if not, the system proceeds to block 126. At block 126, the system determines whether a year-end tax routine was selected. If so, the system proceeds to that routine via entry point E, shown in block 128; if not, then the user selected the choice to exit from the main menu, and the system ends operation, as shown in block 130.

FIG. 7 depicts a flowchart for an initialize data disk routine. The purpose of this routine, which implements the module at block 72 of FIG. 5, is to initialize data disk 52. Block 124 shows that the system proceeds via entry point D to block 140, where the user is asked to enter a password. As shown at block 142, the system then determines whether the entered password is correct, preferably by comparing the password entered by the user to a password in the code of software 50 as sent to portfolio/fund accountant 48 by portfolio administrator 60. If the password entered is not correct, the system returns to the main menu routine via entry point M as shown in block 102; if the password entered is correct, the system proceeds to block 144, the next step in the initialize data disk routine.

As shown in block 144, the system asks the user to enter the pricing date. The pricing date is the date to which all data entered into the system applies. The system then displays the pricing date entered, as shown in block 146, and then, at block 148, asks the user whether the displayed pricing date is correct. If the user indicates that the displayed pricing date is not correct, the system returns to block 144 to allow the user to enter the pricing date again; if the user indicates that the displayed pricing date is correct, then the system proceeds to the next step.

The system continues by creating a date file on data disk 52 and storing the pricing date to the date file, as block 150 shows. The system then proceeds to block 152, prompting the user to enter the Spoke assets for each fund that will invest in the portfolio (Hub). Data regarding the Spoke assets is typically provided from general ledger 54, and may be entered into the system manually by the user or automatically via an interface between the system and the general ledger that will be apparent to those of skill in the art. General ledger 54 may also be integrated with the system as part of software 50.

Next, at block 154, the system displays the entries for the Spoke assets, and then prompts the user to indicate whether the entries are correct, as block 156 shows. If the user indicates that the entries are not correct, the system returns to block 152 to allow the user to enter the Spoke assets data again; if the entries are correct, the system proceeds to block 158. As shown there, the system creates our files on the data disk: (1) a prior day

file, which stores data for the prior day's total investments for the portfolio and each fund; (2) a current day file, which stores data for the adjusted total investments for the Hub and each Spoke and the allocation ratios (percentage each of the Spokes holds in the Hub, as determined by the book capital accounts); (3) a daily incremental activity file, which stores data for the income, expenses, and net realized gain or loss for the Hub; and (4) a tax file, which stores all daily activity data for computing aggregate year-end income expenses, and capital gain or loss for the Hub and each Spoke. The data stored for each day in the tax file includes the adjusted total investments for the Hub and Spokes; the daily incremental income, expenses, and net realized gain or loss for the Hub; the daily net unrealized gain or loss for the Hub and the Spokes; and the allocation ratios for each Spoke.

The system next goes to block 160, where a disk check file is created on the data disk and a disk check value that identifies the Hub and its Spokes is stored. The disk check value is preferably a part of the code of software 50 provided by fund administrator 60 and, as further described below, serves to prevent a user from using the wrong data disk for a particular Hub and Spoke configuration. The system next proceeds to block 162; there a breakage accumulator file is created on the data disk for storing data regarding fractional discrepancies that may arise during operation of the system. The system then returns to the main menu routine via entry point M, as shown at block 102.

FIG. 8 is a flowchart for a Hub and Spoke allocation routine. The purpose of this routine, which implements the module at block 74 of FIG. 5, is to calculate the daily allocation ratios for the Spokes (i.e., the percentage share that each fund has in the portfolio), taking into consideration the previous day's purchases and redemptions in each fund. Starting at entry point A, shown in block 112, the system proceeds to block 172, where a submenu is displayed. The system next proceeds to block 174, where the user enters a one-letter submenu choice. At block 176, the system determines whether a valid submenu choice was entered. If not, the system returns to block 174 for the user to enter a submenu choice; if so, the system proceeds to block 178. There the system determines whether the user selected the submenu choice to exit. If so, the system returns to the main menu routine via entry point M, as shown in block 102; if not the system proceeds to the next step.

At block 180, the system retrieves the disk check value from the disk check file. At block 182, the system determines whether the data disk is correct—i.e., whether the proper data disk 52 is being used for one particular Hub and Spoke configuration as opposed to another Hub and Spoke configuration that may be administered by a portfolio/fund accountant 48. This is preferably done by comparing the check disk value retrieved from the check disk file with a check disk value in the code of software 50. If the two values do not match, the data disk is not correct, and the system proceeds to block 184, where an error message is displayed, and then returns to the main menu routine via entry point M, at block 102. If the two values do match, the data disk is correct, and the system proceeds to block 186.

At block 186, the system retrieves the pricing date from the date file. Next, the system goes to block 188, where the system queries the user to determine whether the pricing date is correct. If so, the system proceeds to

block 194; if not, the system goes to block 190 to allow the user to enter the pricing date, then to block 192, in order to update the date file, and then to block 194.

As shown at block 194, the system allows the user to enter the stock activity (purchases and redemptions) that each Spoke experienced the previous day. This information is received from transfer agent 42, and may be entered manually or by means of a computer in a way that will be apparent to those of skill in the art. The system next displays the entries, at block 196, and asks the user whether the entries are correct. If not, the system returns to block 194; if so, the system proceeds to block 200.

At block 200, the system retrieves the prior day's total investments from the prior day file. At block 202, the system uses the prior day total investments and the stock activity entries to calculate the adjusted total investments and the new allocation ratios for the Spokes based on the book capital account for each fund. The results are displayed at block 204, and the system asks the user, at block 206, whether to print the results. If so, the results are printed at block 208 and the system proceeds to block 210; if not, the system proceeds directly to block 210. There, the system stores the adjusted total investments and the new allocation ratios in the current day file. The system then returns to the main menu routine via entry point M, as shown at block 102.

FIGS. 9A-C are a flowchart for a daily incremental activity routine. The purpose of this routine, which implements the modules at blocks 80 and 82 of FIG. 5, is to allocate daily incremental income, expenses, and net realized gain or loss for the portfolio among each of the Spokes. Starting at entry point B, shown in block 116, the system proceeds to block 222, where a submenu is displayed. The system next proceeds to block 224, where the user enters a one-letter submenu choice. At block 226, the system determines whether a valid submenu choice was entered. If not, the system returns to block 224 for the user to enter a submenu choice; if so, the system proceeds to block 228. There the system determines whether the user selected the submenu choice to exit. If so, the system returns to the main menu routine via entry point M, as shown in block 102; if not the system proceeds to the next step.

At block 230, the system retrieves the disk check value from the disk check file. At block 232, the system determines whether the data disk is correct. If not, the system proceeds to block 234, where an error message is displayed, and then returns to the main menu routine via entry point M, at block 102. If the data disk is correct, the system proceeds to block 236.

At block 236, the system retrieves the pricing date from the date file. Next, the system goes to block 238, where the system queries the user to determine whether the pricing date is correct. If so, the system proceeds to block 244; if not, the system goes to block 240 to allow the user to enter the pricing date, then to block 242, in order to update the date file, and then to block 244.

As block 244 shows, the system asks whether the user would like to retrieve prior daily incremental activity entries. It may be, for example, that the user previously ran the daily incremental activity routine to enter the incremental income and expenses, but not the incremental net realized gain or loss. If the user has made no prior entries and thus does not wish to retrieve any data, the system proceeds to block 252. If the user does wish to retrieve data, the system proceeds to block 246, where daily incremental activity entered prior to the current

pass through this routine is retrieved from the daily incremental activity file. The system then displays the prior entries, at block 248, and then asks whether the user wishes to modify any of the entries (which would include entering any of them for the first time), as shown at block 250. If not, the system proceeds to block 258; if so, the system goes to block 252.

At block 252, the user may enter data for the daily incremental income, expenses, and net realized gain or loss for the portfolio. (It should be noted here that expenses incurred solely by the funds are accounted for in general ledger 54 or portfolio accounting system 56. These operations are separate from those of software 50 and are not a part of the present invention.) The system then displays the entries, at block 254, and then asks whether the entries are correct, at block 256. If not, the system returns to block 252; if so, the system goes to block 258.

As shown at block 258, the system stores entries for daily incremental income, expense, and net realized gain or loss in the daily incremental activity file. The system then, at block 260, retrieves the adjusted total investments and allocation ratios from the current day file. At block 262, the system then computes the Hub and Spoke prepricing assets, displays the results (at block 264), and asks the user whether to print the results, at block 266. If not, the system goes to block 270; if so, the system prints the results (at block 268) and then goes to block 270. There, the system asks whether the user wishes to enter the unrealized gain or loss. If so, the system proceeds to the unrealized gain or loss routine via entry point C, shown in block 120; if not, the system returns to the main menu routine via entry point M, shown in block 102.

FIGS. 10A-C are a flowchart for a daily unrealized gain or loss routine. The purpose of this routine, which implements the module at block 84 of FIG. 5, is to allocate daily net unrealized gain or loss of the portfolio among each of the funds. Starting at entry point C, shown in block 120, the system proceeds to block 282, where a submenu is displayed. The system next proceeds to block 284, where the user enters a one-letter submenu choice. At block 286, the system determines whether a valid submenu choice was entered. If not, the system returns to block 284 for the user to enter a submenu choice; if so, the system proceeds to block 288. There the system determines whether the user selected the submenu choice to exit. If so, the system returns to the main menu routine via entry point M, as shown in block 102; if not the system proceeds to the next step.

At block 290, the system retrieves the disk check value from the disk check file. At block 300, the system determines whether the data disk is correct. If not, the system proceeds to block 302, where an error message is displayed, and then returns to the main menu routine via entry point M, at block 102. If the data disk is correct, the system proceeds to block 304.

At block 304, the system retrieves the pricing date from the date file. Next, the system goes to block 306, where the system queries the user to determine whether the pricing date is correct. If so, the system proceeds to block 312; if not, the system goes to block 308 to allow the user to enter the pricing date, then to block 310, in order to update the date file, and then to block 312.

As block 312 shows, the system prompts the user to enter the net unrealized gain or loss for the portfolio, and the user's estimate of the end of day Hub assets. This information is typically provided from portfolio

accounting system 56 and may be entered into the system manually or automatically as described above for general ledger 54. The user's estimate of the end of day portfolio assets serves as an error checking device. The system next displays the entries, at block 314, and then asks the user, at block 316, whether the entries are correct. If so, the system proceeds to block 318; if not, the system returns to block 312.

At block 318, the system retrieves the adjusted total investments and allocation ratios from the current day file. Next, at block 320, the system retrieves the daily incremental income, expenses, and realized gain or loss from the daily incremental file, and then retrieves the breakage accumulation file, at block 322. The system then goes to block 324, where it calculates the end of day Hub and Spoke assets and the variance with the user's estimate of the Hub assets. The end of day Hub and Spoke assets become the new values for the adjusted total investments for the portfolio and funds. A worksheet containing the results is displayed, at block 326, and the system then determines whether the printer is operating, at block 328. If not, the system proceeds to block 334; if so, the worksheet is printed (block 330) and the user is asked, at block 332, whether the data in the worksheet is correct. If it is not, the system returns to the main menu routine via entry point M, at block 102, so that the user may correct any of the entered data; if the data is correct, the system goes to block 334.

At block 334, the system stores the end of day Hub and Spoke assets by overwriting the prior day's total investments data in the prior day file with the adjusted total investments data in the current day file. At block 336, the system updates the breakage accumulation file with data regarding any fractional discrepancies that may have arisen. Next, at block 338, the system updates the year-end tax file, which involves storing in the tax file the adjusted total investments for the portfolio and each of the funds; the daily incremental income, expenses, and net realized gain or loss for the portfolio; the daily net unrealized gain or loss for the portfolio and funds; and the allocation ratios for each of the funds. The system then returns to the main menu routine via entry point M, as block 102 shows. Data may also be transferred to general ledger 54, either manually or automatically.

FIG. 11 is a flowchart for a year-end tax routine. The purpose of this routine, which implements module 86 of FIG. 5, is to process and calculate aggregate year-end data for the Hub and its Spokes for tax and accounting purposes. Starting at entry point E, shown in block 128, the system proceeds to block 342, where a submenu is displayed. The system next proceeds to block 344, where the user enters a one-letter submenu choice. At block 346, the system determines whether a valid submenu choice was entered. If not, the system returns to block 344 for the user to enter a submenu choice; if so, the system proceeds to block 348. There the system determines whether the user selected the submenu choice to exit. If so, the system returns to the main menu routine via entry point M, as shown in block 102; if not the system proceeds to the next step.

At block 350, the system retrieves the disk check value from the disk check file. At block 352, the system determines whether the data disk is correct. If not, the system proceeds to block 354, where an error message is displayed, and then returns to the main menu routine via entry point M, at block 102. If the data disk is correct, the system proceeds to block 356.

At block 356, the system retrieves the year-end tax data that the system has been storing in the tax file each day. The system then asks, at block 358, if the user wishes to print the tax data. If not, the system goes to block 362; if so, the system prints the tax data, at block 360, and then proceeds to block 362. There, the system asks whether the user wishes to modify any of the tax data. If not, the system proceeds to block 368; if so, the system goes to block 364, where the user enters changes to the tax data, then to block 366, to update the year-end tax file, and then to block 368.

As block 368 shows, the system calculates and processes the year-end tax data to determine aggregate year-end income, expenses, and capital gain or loss for the Hub and each Spoke. The results are then stored, at block 370, the results are displayed, at block 372, and printed, at block 374. The printout may be in the form of Internal Revenue Service form K-1. The system then returns to the main menu routine, as shown at block 102.

What is claimed is:

1. A data processing system for managing a financial services configuration of a portfolio established as a partnership, each partner being one of a plurality of funds, comprising:

- (a) computer processor means for processing data;
- (b) storage means for storing data on a storage medium;
- (c) first means for initializing the storage medium;
- (d) second means for processing data regarding assets in the portfolio and each of the funds from a previous day and data regarding increases or decreases in each of the funds, assets and for allocating the percentage share that each fund holds in the portfolio;
- (e) third means for processing data regarding daily incremental income, expenses, and net realized gain or loss for the portfolio and for allocating such data among each fund;
- (f) fourth means for processing data regarding daily net unrealized gain or loss for the portfolio and for allocating such data among each fund; and
- (g) fifth means for processing data regarding aggregate year-end income, expenses, and capital gain or loss for the portfolio and each of the funds.

2. A data processing system as claimed in claim 1, wherein said first means further comprises:

- (a) means for inputting and storing on the storage medium pricing date data;
- (b) means for inputting and storing on the storage medium data regarding assets of each fund;
- (c) means for storing on the storage medium a value identifying the storage medium; and
- (d) means for creating locations on the storage medium for storing data regarding:
 - (i) a previous day's total investments for the portfolio and each of the funds;
 - (ii) adjusted total investments for the portfolio and each of the funds;
 - (iii) allocation ratios indicative of the percentage share that each fund holds in the portfolio;
 - (iv) daily incremental income, expenses, and realized gain or loss for the portfolio;
 - (v) all daily activity for the portfolio and each of the funds; and
 - (vi) breakage accumulation.

3. A data processing system as claimed in claim 2, wherein said second means further comprises:

- (a) means for verifying that the storage medium is correct by retrieving from the storage medium the value identifying the storage medium;
- (b) means for retrieving from the storage medium the pricing date data and allowing the pricing date data to be corrected if necessary;
- (c) means for inputting and storing on the storage medium the data regarding increases or decreases in each of the funds' assets;
- (d) means for retrieving from the storage medium the data regarding a previous day's total investments; and
- (e) means for calculating and storing on the storage medium the data regarding adjusted total investments and allocation ratios.

4. A method as claimed in claim 3, wherein said third means further comprises:

- (a) means for verifying that the storage medium is correct by retrieving from the storage medium the value identifying the storage medium;
- (b) means for retrieving from the storage medium the pricing date data and for allowing the pricing date data to be corrected if necessary;
- (c) means for allowing retrieval from the storage medium of any previously input data regarding daily incremental income, expenses, and net realized gain or loss;
- (d) means for inputting and for storing on the storage medium the data regarding daily incremental income, expenses, and net realized gain or loss;
- (e) means for retrieving from the storage medium the data regarding adjusted total investments and allocation ratios; and
- (f) means for computing data representing prepricing assets for the portfolio and each of the funds.

5. A data processing system as claimed in claim 4, wherein said fourth means further comprises:

- (a) means for verifying that the storage medium is correct by retrieving from the storage medium the value identifying the storage medium;
- (b) means for retrieving from the storage medium the pricing date data and allowing the pricing date data to be corrected if necessary;
- (c) means for inputting data representing net unrealized gain or loss for the portfolio;
- (d) means for retrieving from the storage medium the data regarding adjusted total investments and allocation ratios;
- (e) means for retrieving from the storage medium the data regarding daily incremental income, expenses, and net realized gain or loss;
- (f) means for retrieving from the storage medium the data representing breakage accumulation;
- (g) means for calculating and for storing on the storage medium data regarding end of day assets for the portfolio and each of the funds;
- (h) means for storing on the storage medium updated data regarding breakage accumulation; and
- (i) means for storing on the storage medium data regarding all daily activity for the portfolio and each of the funds.

6. A data processing system as claimed in claim 5, wherein said fifth means further comprises:

- (a) means for verifying that the storage medium is correct by retrieving from the storage medium the value identifying the storage medium;

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- (b) means for retrieving from the storage medium the data regarding all daily activity for the portfolio and each of the funds;
- (c) means for calculating and processing the data regarding all daily activity to obtain data regarding 5 aggregate year-end income, expenses, and capital

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- gain or loss for the portfolio and each of the funds; and
 - (d) means for storing on the storage medium the data regarding aggregate year-end income, expenses, and capital gain or loss.
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